

FEDERAL REGISTER



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Washington, Friday, December 6, 1940

Rules, Regulations, Orders

TITLE 8—ALIENS AND CITIZENSHIP

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE

[Second Supp. to General Order C-21]

PART 29—REGISTRATION AND FINGERPRINTING OF ALIENS IN ACCORDANCE WITH THE ALIEN REGISTRATION ACT, 1940

AMENDED REGULATIONS GOVERNING THE EXEMPTION OF FOREIGN GOVERNMENT OFFICIALS AND MEMBERS OF THEIR FAMILIES FROM REGISTRATION AND FINGERPRINTING

DECEMBER 4, 1940.

Pursuant to the authority contained in sections 37 (a), 34 (a), and 32 (c) of Title III of the Act of June 28, 1940, (Alien Registration Act, 1940; 54 Stat. 670) and to the powers conferred by § 90.1, Title 8, Code of Federal Regulations (5 F.R. 3503), paragraph (h) of § 29.1 of said Title 8, Code of Federal Regulations (5 F.R. 2836), as amended by the First Supplement to General Order No. C-21 (5 F.R. 4560) is hereby further amended so that the provisos which conclude § 29.1 (h) (1) will read as follows:

Provided, however, In all such cases, except those of ambassadors and ministers and members of their missions whose names appear on the blue Diplomatic List published monthly by the Department of State, that within thirty days after the arrival of any such foreign government official, or his employment as a foreign government official, in the United States the Department of State is notified by the appropriate diplomatic mission, on an official form supplied by the Department of State of the full name of such official, together with such other information as the Department of State deems appropriate, and that the Department of State accepts such notification as satisfactory and recognizes the status claimed: And provided further, That a claim of exemption as a foreign government official in behalf of any alien shall operate to terminate any status as a permanent resident theretofore acquired by

such alien for immigration and naturalization purposes.

HENRY M. HART, Jr.,
Special Assistant to the Attorney
General
In Charge pro tem Immigration and
Naturalization Service.

Approved:

ROBERT H. JACKSON,
Attorney General.

[F. R. Doc. 40-5360; Filed, December 5, 1940;
10:13 a. m.]

[General Order No. C-25]

PART 30—IMMIGRATION, EXCLUSION, AND DEPORTATION OF CERTAIN FILIPINOS

AMENDED REGULATIONS

DECEMBER 4, 1940.

Pursuant to the authority conferred by section 23 of the Act of February 5, 1917 (39 Stat. 892; 8 U.S.C. 102); sections 10 and 24 of the Immigration Act of 1924 (43 Stat. 158, 166; 8 U.S.C. 210, 222); section 8 (2) of the Act of March 24, 1934 (48 Stat. 462; 48 U.S.C. 1238); section 37 (a) of the Act of June 28, 1940 (54 Stat. 670); and section 1 of Reorganization Plan No. V (5 F.R. 2223), the following amendments of Title 8, Chapter I, Part 30, Code of Federal Regulations (Rule 31, Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936, as amended), are hereby promulgated:

Section 30.5 (Rule 31, Subd. B, Par. 3) is amended by eliminating the words "and who is not exempted from having such documents by §§ 30.11, 30.12".

Sections 30.10 and 30.11 (Rule 31, Subd. E, Par. 1 and 2) are amended to read as follows:

§ 30.10 *Philippine citizens; returning residents; reentry permits.* (a) A citizen of the Philippine Islands lawfully admitted to the United States, including the Territory of Hawaii, for permanent residence and whose original entry occurred after April 30, 1934, may make application for a reentry permit in the same manner as any alien. Such an application may also be made by a citizen

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of the Philippine Islands whose residence in the United States, except the Territory of Hawaii, began prior to May 1, 1934, and who has continued to maintain his residence in the United States.

(b) A citizen of the Philippine Islands whose residence in the Territory of Hawaii began prior to May 1, 1934, who has continued to maintain that residence, and who has not subsequent to that date obtained an immigration visa and been admitted to the United States, including the Territory of Hawaii, for permanent residence in accordance with the provisions of section 8 of the Act of March 24, 1934 (48 Stat. 462; 48 U.S.C. 1238), may also make application for a reentry permit. A reentry permit issued under this subsection shall not entitle the holder to reenter any part of the United States except the Territory of Hawaii. (Sec. 8, 48 Stat. 462; 48 U.S.C. 1238)

§ 30.11 *Philippine citizens; returning residents; how admitted.* (a) A citizen of the Philippine Islands lawfully admitted to the United States, including the Territory of Hawaii, for permanent residence and whose original entry occurred after April 30, 1934, upon returning from a temporary visit to the Philippine Islands or any foreign country may be readmitted under section 4 (b) of the Immigration Act of 1924 if in possession of an appropriate nonquota immigration visa or a valid reentry permit. A citizen of the Philippine Islands whose residence in the United States, except the Territory of Hawaii, began prior to May 1, 1934, and who has continued to main-

tain his residence in the United States, may be admitted under the same conditions.

(b) A citizen of the Philippine Islands whose residence in the Territory of Hawaii began prior to May 1, 1934, and who has continued to maintain that residence, upon returning from a temporary visit to the Philippine Islands or any foreign country, may be readmitted to the Territory of Hawaii if in possession of a limited reentry permit issued under the authority of § 30.10 (b) of this Part, or an appropriate immigration visa prescribed for such use.

(c) Any applicant for readmission under subsections (a) or (b) of this section may, if otherwise admissible under the immigration laws, be admitted without an immigration visa or reentry permit if his case is defined by the Secretary of State as an emergency case in accordance with the provisions of section 30 of the Act of June 28, 1940 (54 Stat. 670). (Sec. 8, 48 Stat. 462; 48 U.S.C. 1238)

Sections 30.12 and 30.13 (Rule 31, Subd. E, Par. 3 and 4) are hereby canceled.

ROBERT H. JACKSON,
Attorney General.

Approval recommended:

HENRY M. HART, Jr.,

Special Assistant to the Attorney General, in Charge pro tem, Immigration and Naturalization Service.

[F. R. Doc. 40-5361; Filed, December 5, 1940; 10:13 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

CHAPTER II—AGRICULTURAL MARKETING SERVICE

PART 204—POSTED STOCKYARDS AND LIVE POULTRY MARKETS

NOTICE RELATIVE TO B. E. WEDIN, ED C. HAECKER, AND HOWARD PRUITT, D/B/A GRIDLEY AUCTION & SALES YARD, GRIDLEY, CALIFORNIA¹

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U.S.C. Sec. 202 (b)), it has been ascertained by me that the stockyard known as the Gridley Auction & Sales Yard at Gridley, State of California, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U.S.C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] PAUL H. APPLEBY,
Acting Secretary of Agriculture.

[F. R. Doc. 40-5379; Filed, December 5, 1940; 11:36 a. m.]

¹ Modifies list posted stockyards 9 CFR 204.1.

TITLE 20—EMPLOYEES' BENEFITS
CHAPTER II—RAILROAD RETIREMENT BOARD

PART 310—COMPENSATION AND REMUNERATION

PART 325—REGISTRATION AND CLAIMS FOR BENEFITS

AMENDMENTS TO REGULATIONS UNDER THE RAILROAD EMPLOYMENT INSURANCE ACT

Pursuant to the authority contained in section 12 of the Act of June 25, 1938 (52 Stat. 1094, 1107; 45 U.S.C. Sup. IV, 362) as amended by the Act of June 20, 1939 (53 Stat. 845; Public No. 141, 76th Congress, First Session), the Railroad Retirement Board, by Board Order 40-664 dated November 26, 1940, amends the regulations under the Railroad Unemployment Insurance Act by adopting §§ 310.70 and 325.11, effective July 1, 1939, and §§ 325.15, 325.16 and 325.50, effective November 1, 1940, and amending §§ 325.12 and 325.14, effective November 1, 1940; and by Board Order 40-677 dated November 28, 1940, amends § 325.13,¹ effective November 1, 1940, as follows:

§ 310.70 Failure of employer to report base year compensation. So long as an employer fails, for any reason, to report to the Board the compensation payable by such employer during the base year to an employee who is claiming railroad unemployment insurance benefits, the amount of wages earned by such employee from such employer in the base year as shown on any statement of either of the following types shall be deemed to be the base year compensation of such employee from such employer for the purpose of paying benefits under the Railroad Unemployment Insurance Act, subject to adjustment of such benefits if the base year compensation as subsequently reported by the employer to the Board is different from the amount of wages shown on such statement:

(a) Statements, under oath or otherwise, signed by an official, or a duly authorized employee, of a Federal or state governmental agency, based on reports made to the agency by the employer.

(b) Statements, under oath or otherwise, signed by an officer, or a duly authorized employee, of the employer, or, if not so signed, on forms prepared by the employer.

§ 325.11 Designation of unemployment claims agents and free employment offices. Each employee of an employer, selected by it under an agreement between such employer and the Board entered into pursuant to section 12 (h) of the Railroad Unemployment Insurance Act, to take registrations of unemployed employees, and each other person designated by the Board, or pursuant to

authority conferred by the Board, to take registrations of unemployed employees, is an unemployment claims agent. Each office or other facility selected by an unemployment claims agent for the registration of unemployed employees is designated a "free employment office".

§ 325.13 Time of registration. With respect to the first day claimed as a day of unemployment in a benefit year and with respect to the first day claimed as a day of unemployment by registration with an unemployment claims agent other than the one, or the alternate or successor of the one, with whom the employee last registered in the same benefit year, an employee shall register on the day so claimed. With respect to every other day claimed as a day of unemployment, an employee shall register on such other day or on the first business day thereafter, except that any unemployment claims agent may, pursuant to instructions of the Board, require daily registration, in appropriate cases, and require strict adherence to the time designated for registration. If, after the first day in a benefit year on which an employee has registered, he fails to register, within the time hereinbefore specified, for any subsequent day he wishes to claim as a day of unemployment by registration with the unemployment claims agent with whom he last registered, because of his being in transit to or from a job, or his being held over or lying over after completing a job in anticipation of a possible call for other work, or his being employed, or his being sick, or his being unable to register because of any other circumstance or condition directly affecting him and not attributable to any lack of diligence on his part, then, notwithstanding any other provision of this section, on a day within the seven-day period beginning on the day for which he so fails to register, he may appear before the unemployment claims agent with whom he last registered prior to such day, and submit in writing a signed statement, on a form provided by the Board, explaining why he so failed to register, and register for such day. If an employee fails to register for any day within the time hereinabove specified because an unemployment claims agent, with whom he attempts to register, is not ready and willing to take his registration or because of incorrect instructions or misinformation given him by an unemployment claims agent or an employee of the Board, registration for such day for which he so fails to register shall be valid if he communicates such facts to a field representative, a district manager's office, or a regional office, of the Board, or to the office of the Board in Washington and thereafter registers for such day in accordance with instructions given him by such field representative or such office. If an employee is prevented, because of compliance with instructions of the Board to apply for work, from registering, within the time hereinabove specified, for any day, with the unemployment claims

agent with whom he last registered, such compliance shall constitute registration for such day with such unemployment claims agent. An employee, of an employer which does not comply with the provisions of the Act and denies that it is such an employer or denies that it is the employer of such employee, may, notwithstanding any other provisions of this section, or of §§ 325.12, 325.14, or 325.16, register for any day claimed as a day of unemployment and occurring while such employer fails to comply with the provisions of the Act by registering in accordance with the requirements of a state unemployment compensation law for a period which includes such day, and in the absence of affirmative evidence that remuneration was payable to him, or that he was not able to work, or that he was not available for work, or that a disqualifying condition under section 4 of the Railroad Unemployment Insurance Act existed with respect to such day, such registration shall constitute sufficient evidence that such day is a day of unemployment.

§ 325.15 Certificate of claims agent. Upon taking the registrations of an employee for a particular day or days, the unemployment claims agent shall certify that the person who has registered on the form provided by the Board is known to him to be the employee whose name and social security account number are shown on such form, that the employee registered in his presence on the dates and at the times shown opposite his signature, and that all statements certified by the employee, subject to any explanations that may be attached to such form, are true and correct to the best of his knowledge and belief. If the unemployment claims agent has information indicating that an employee's registration for a particular day or days may be invalid, he shall report such information in writing to the Board.

§ 325.16 Transfer of employee from one unemployment claims agent to another. An employee, who has appeared before an unemployment claims agent and has begun a registration period and who desires to register with an unemployment claims agent, other than the one, or the alternate or successor of the one, with whom he registered in such registration period, for any day of unemployment within the thirteen days following the beginning of such registration period, shall secure, from the unemployment claims agent with whom he is registering, an authorization to change his place of registration, on a form provided by the Board. If an employee has a registration period current at the time he obtains an authorization to change his place of registration, his claim for benefits for such registration period will be immediately processed and determined upon the basis of such registration period ending on such day if the employee has theretofore registered for such day or, if the employee has not theretofore registered for such day, on

¹ Board Order 40-664 dated November 26, 1940, adopting this section was superseded by Board Order 40-677 dated November 28, 1940 prior to publication.

the last day prior thereto for which the employee has theretofore registered.

§ 325.50 *Reconstruction of lost claim.* If an unemployment claims agent has, on a form provided by the Board, a record of the registration and claim of any employee for any period showing the dates of the days for which the employee registered and such record is in proper chronological order in a bound book in his possession, or if there is any other form provided by the Board which shows such dates and indicates that such registration and claim was transmitted by mail or otherwise by the unemployment claims agent to another agent of the Board, or to the Board, and if such claim is apparently lost and cannot be found, any such record or such written evidence may be accepted as proof that the claimant registered for such days in accordance with the regulations, and reregistration for such days shall be valid upon recertification for such days by the employee and the unemployment claims agent within sixty days after the last of such days.

§ 325.12 (a) *Method of registration.* An employee shall register with respect to each day which he wishes to claim as a day of unemployment by appearing before an unemployment claims agent at a free employment office during such agent's working hours, subscribing to the statements on the registration and claim form provided by the Board, and furnishing the information required by such form.

(b) *Requirements in conjunction with registration.* At the time of registration for the first day claimed as a day of unemployment in a benefit year the employee shall also fill out an application for a certificate of benefit rights on a form provided by the Board, and attach thereto the appropriate certificate of service months and wages furnished him by the Board, or, if he has lost or never received such certificate of service months and wages, shall furnish on such application a statement of his employment and compensation in the appropriate base year; and within three days following the day of such registration the employee shall fill out and mail to the Board an application for employment service on a form provided by the Board. If an employee has registered with an unemployment claims agent and thereafter in the same benefit year registers with an unemployment claims agent other than the one, or the alternate or successor of the one, with whom he last registered in the same benefit year, the employee, at the time of registration with such other unemployment claims agent, shall attach to the registration and claim form his authorization to change place of registration if such authorization is required pursuant to § 325.16, or, if he has no such authorization to change place of registration shall show to the unemployment claims agent (1) a certificate of benefit rights issued to him by the Board, or (2) if he has no certificate of benefit rights,

the last record of claim issued to him by an unemployment claims agent, or (3) if he has no certificate of benefit rights and no such record of claim, a statement of his current benefit account furnished to him by the Board.

§ 325.14 *Certifications upon registration.* Upon registering for a particular day or days, an employee, in addition to making such certifications as may be required with respect to such day or days, shall certify that he was unemployed during the whole of each day for which he previously registered during the same registration period, and that all statements and certifications made upon previous registrations during the same registration period are true and correct: *Provided, however,* That if, with respect to any day or days, the employee is in doubt as to whether he can subscribe to the truth of any statement to which he would be required to certify in registering for such day or days, he may indicate that he qualifies his certification if he furnishes a written statement explaining in detail why he qualifies his certification.

By Authority of the Board.

[SEAL] JOHN C. DAVIDSON,
Secretary.

DECEMBER 4, 1940.

[F. R. Doc. 40-5340; Filed, December 5, 1940;
9:49 a. m.]

TITLE 29—LABOR
CHAPTER V—WAGE AND HOUR
DIVISION

PART 526—INDUSTRIES OF A SEASONAL
NATURE

APPLICATION FOR THE EXEMPTION OF THE
EXCAVATING OF PEAT MATERIALS FROM THE
MAXIMUM HOURS PROVISIONS¹

Whereas, application was filed by the United States Peat Moss Corporation, the Hyper-Humus Company, and sundry other parties, for the exemption of the excavating, macerating, spreading, cutting, or drying of peat materials from the maximum hours provisions of the Fair Labor Standards Act of 1938, as an industry of a seasonal nature within the meaning of section 7 (b) (3) of the Act and Part 526, as amended, of the Regulations issued thereunder; and

Whereas, it appears that:

(1) In the United States peat materials are produced in the more northerly and higher altitudes states and in the southern states and California; and

(2) That operations in the more northerly and higher altitude states of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Ohio, Michigan, Wisconsin, Minnesota, Illinois, Iowa, Indiana, North Dakota,

South Dakota, Colorado, Utah, Nevada, Montana, Idaho, Oregon, and Washington constitute the northern branch of the peat materials producing industry and operations in all other states make up the southern branch of the industry; and

(3) That in the northern branch peat is produced during a regularly recurring season not extending beyond the six-months period, May through October, and ceases during the remainder of the year because the peat materials are not available for extraction due to their frozen condition, to excess moisture, or to other climatic factors; and

(4) That in the southern branch of the industry peat materials are, with perhaps occasional exceptions, produced during a season or seasons considerably longer than the maximum six-months season which obtains for the northern branch and too long in relation to the period of exemption afforded by section 7 (b) (3) of the Fair Labor Standards Act to be considered an industry of seasonal nature; and

Whereas the Administrator published a preliminary determination in the **FEDERAL REGISTER** on November 5, 1940 (5 F.R. 4377), pursuant to § 526.5 (b) (ii) of the Regulations, that a *prima facie* case was shown by the applications for the granting of an exemption pursuant to section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526, as amended, of the Regulations issued thereunder to the northern branch of the peat materials producing industry including excavating, macerating, spreading, cutting, or drying of peat materials; and

Whereas no objection and request for hearing was received by the Administrator within the fifteen days following publication of said preliminary determination; and

Whereas this determination shall be without prejudice to supplementary determination enlarging the scope of the northern branch by the inclusion therein of such production of peat materials, if any, as are conducted in the same manner and for the same reasons as operations in the northern branch described in paragraphs (2) and (3) above.

Now, therefore, pursuant to § 526.5 (b) (ii) of the Regulations, the Administrator hereby finds upon the *prima facie* case shown in the said applications that the excavating, macerating, spreading, cutting, or drying of peat materials is a seasonal industry within the meaning of section 7 (b) (3) of the Fair Labor Standards Act of 1938 and the Regulations issued thereunder and, therefore, is entitled to the exemption provided in section 7 (b) (3) of the said Act.

Signed at Washington, D. C., this 3 day of December 1940.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 40-5383; Filed, December 5, 1940;
11:54 a. m.]

¹ Affects tabulation in § 526.101.

TITLE 33—NAVIGATION AND
NAVIGABLE WATERSCHAPTER II—CORPS OF ENGINEERS,
WAR DEPARTMENTPART 203—BRIDGE REGULATIONS¹

§ 203.447 *Biscayne Bay, Fla.; bridge (highway) 13th St., Miami, Fla.* (a) During the period from December 20 to March 15, both dates inclusive, the owner or agency controlling the bridge shall not be required to open the east and west drawspans between the hours of 7:00 a. m. and 9:00 a. m., except that the east drawspan shall be opened on the half hour and even hour for sufficient time to pass any vessels awaiting passage.

(b) During the same period the owner or agency controlling this bridge shall not be required to open the east and west drawspan between the hours of 4:30 p. m. and 6:30 p. m., except that the west drawspan shall be opened on the half hour and even hours for sufficient time to pass any vessels awaiting passage.

(c) Either draw shall be opened at any time when required by a tow, or in an emergency.

(d) Officers of the Police Departments of Miami and Miami Beach shall be stationed at the respective draws and at the ends of the causeway during the above hours to regulate traffic in conjunction with the bridge tender.

(e) These regulations shall be for the 1940-41 season only, and they may be revoked in the discretion of the Secretary of War.

(f) Boat owners shall cooperate insofar as possible to facilitate the operation of the draws of this bridge.

(g) These temporary regulations shall be in effect from December 20, 1940 to March 15, 1941 and are supplemental to the "Rules and regulations to govern the operation of drawbridges crossing all navigable waterways of the United States discharging their waters into the Atlantic Ocean south of and including Chesapeake Bay and the Gulf of Mexico, excepting the Mississippi River and its tributaries." (Sec. 5, River and Harbor Act, Aug. 18, 1894, 28 Stat. 362; 33 U.S.C. 499) [Special regs., Nov. 25, 1940 (E. D. 6371 (Florida-Biscayne Bay-Miami) 21/8)]

[SEAL]

E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 40-5332; Filed, December 4, 1940;
3:35 p. m.]

Notices

WAR DEPARTMENT.

[Contract No. W 535 ac-15646 (3661)]

SUMMARY OF A CONTRACT FOR SUPPLIES

CONTRACTOR: LOCKHEED AIRCRAFT CORPORATION

Contract for: * * * P-38-E Airplanes, Spare Parts and Data.

Amount, \$30,278,787.00.

¹ § 203.447 is added.

Place: Matériel Division, Air Corps, U. S. Army, Wright Field, Dayton, Ohio.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover cost of same:

AC 32 P 12-3037 A 0705.003-01 \$27,526,170.00
AC 28 P 82-3037 A 0705-01 2,752,617.00
Class .01-A.

This contract, entered into this 30th day of August 1940.

ARTICLE 1. *Scope of this contract.* The contractor shall furnish and deliver to the Government all of the articles and data as set forth more particularly in Article 16 hereof, for the consideration stated, not to exceed Thirty Million Two Hundred Seventy Eight Thousand Seven Hundred Eighty Seven Dollars (\$30,278,787.00) in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

ART. 2. *Changes.* Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

ART. 5. *Delays—Damages.* If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

ART. 8. *Payments.* The contractor shall be paid, upon the submission of properly certified invoices or vouchers the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed \$1,000 or 50 percent of the total amount of the contract.

ART. 16. *Articles and data called for and prices therefor.* The Contractor shall furnish and deliver to the Government all of the following airplanes, spare parts and data at the prices hereinbelow stipulated:

| | |
|--|-----------------|
| Item 1. * * * Airplanes, Pursuit, Single Place, Two-Engine, total | \$27,526,170.00 |
| Item 2. Certain spare parts for all of the airplanes, at a total price not exceeding | 2,752,617.00 |
| Item 3. * * * Direct reading, dark brown negatives. | (No Cost) |

Item 4. * * * Manuscript copy of Handbook of Instructions

(No Cost)

Item 5. * * * Complete bill of materials

(No Cost)

Item 6. * * * Stress analysis

(No Cost)

Partial Payments will be made as the work progresses at the end of each calendar month or as soon thereafter as practicable on authenticated statements of expenditures of the Contractor approved by the Contracting Officer.

The Government shall furnish to the Contractor, without additional cost therefor, for installation in the airplanes called for under the terms of this contract, the articles listed in Contractor's Specification No. 1947, or listed elsewhere in this contract as being Government-furnished.

ART. 22. *Advance payments.* Advance payments may be made from time to time for the supplies called for, when the Secretary of War deems such action necessary in the interest of the National Defense:

ART. 24. *Price adjustment.* The contract prices stated in this contract for all airplanes and spare parts are subject to adjustments for changes in labor costs.

It is expressly agreed that quotas for labor will not be altered on account of delays in the completion of the articles.

ART. 25. *Option.* The Government is granted the right and option at any time within * * * days after date of approval of this contract to increase the total number of airplanes called for under the terms of Item 1 of Article 16 hereof.

ART. 26. *Termination when contractor not in default.* If, in the opinion of the Contracting Officer upon the approval of The Secretary of War, the best interests of the Government so require, this contract may be terminated by the Government, even though the contractor be not in default, by a notice in writing relative thereto from the Contracting Officer to the contractor.

It is expressly understood and agreed by both parties hereto that the contractor hereby agrees:

To pay into the Treasury profit, as hereinafter provided shall be determined by the Treasury Department, in excess of 8 per centum of the total contract prices, of such contracts within the scope of the law as are completed by the particular contracting party within the income taxable year.

ART. 36. *Title to property where partial payments are made.* The title to all property upon which any partial payment is made prior to the completion of this contract, shall vest in the Government.

ART. 38. *Fire insurance.* The contractor agrees to insure against fire all property in its possession upon which a partial payment is about to be made, such insurance to be in a sum at least equal to the amount of such payment plus all other partial payments.

FEDERAL REGISTER, Friday, December 6, 1940

[Serial No. 3345; Date: 9/13/40 Change No. 1 to Contract No. W 535 ac-15646; Date: August 30, 1940]

Change Order

WAR DEPARTMENT, AIR CORPS

MATERIEL DIVISION, WRIGHT FIELD, DAYTON, OHIO

To: Lockheed Aircraft Corporation, Burbank, California.

Subject: Additional Airplanes.

Affecting: Contract W 535 ac-15646.

The Government hereby elects to exercise its right and option contained in Article 25 (a) of Contract W 535 ac-15646 to increase the number of airplanes and spare parts to be furnished under the terms of Items 1 and 2, respectively, of Article 16 of said contract and it is mutually understood and agreed by the parties hereto that so many of the provisions of the contract as are affected by said increases are changed as set forth hereinbelow:

The lot quantity of airplanes, Pursuit, Single-Place, Two-Engined, being purchased under the terms of Contract W 535 ac-15646, is hereby increased to * * *. The unit price of the airplanes called for under the terms of Item 1 of Article 16 of said Contract W 535 ac-15646 shall, in consideration of the accelerated delivery of such airplanes provided for in this Change Order, be increased from * * * per airplane to * * * per airplane, total additional cost, \$799,500.00. The additional * * * airplanes shall be furnished at an additional cost, \$13,610,139.00.

In consideration of the accelerated delivery herein provided for of the spare parts called for in Item 2 of Article 16 of Contract W 535 ac-15646, the unit prices of such spare parts are increased, total additional cost, \$79,950.00. The quantity of spare parts called for under the terms of said Contract W 535 ac-15646 as changed by this Change Order is increased from a money value not exceeding said \$2,832,567.00 to a money value not exceeding \$3,989,428.81, total additional cost, \$1,156,861.81.

It is understood and agreed that certain plant facilities in addition to those now available to the Contractor will be required by the Contractor to enable him to comply with the delivery schedule contained in this Change Order. If an agreement satisfactory to the Contractor, which must be requested, if at all, in writing of the Contracting Officer on or before * * *, providing for the construction or acquisition of such facilities, is not entered into and approved on or before * * *, then and in such event negotiations shall, at the written request of the Contractor delivered to the Contracting Officer, be entered into by and between the Contractor and the Contracting Officer for the amendment of such delivery schedule. If no agreement on such amendment be reached within * * * days from the date of delivery of such request, then the Contractor shall have the right, at any time thereafter and prior to the execution and approval of an agreement providing for the facilities required as hereinbefore stated, to demand in writing of the Contracting Officer that the Government terminate Contract W 535 ac-15646 and this Change Order upon the terms and conditions stated in Article 26 of said Contract, and the Government

agrees in such event to so terminate. If the Contractor does not make the request for a facilities agreement hereinbefore referred to on or before * * *, then and in that event the provisions contained in this paragraph shall be of no further force and effect.

Reason: Additional airplanes required to meet the Air Corps Expansion Program.

It is expressly understood and agreed by both parties hereto that the contractor hereby agrees:

To pay into the Treasury profit, as hereinafter provided shall be determined by the Treasury Department, in excess of 12 per centum of the total contract prices, of such contracts within the scope of the law as are completed by the particular contracting party within the income taxable year.

Procurement Authorities:

| | |
|--------------------------|---------------|
| Debit: AC 32 P 12-3037 A | \$799,500.00 |
| 0705.003-01 | |
| Debit: AC 34 P 12-3037 A | 13,610,139.00 |
| 0705-01 | |
| Debit: AC 28 P 82-3037 A | 1,236,811.81 |
| 0705-01 | |

Total \$15,646,450.81

This contract authorized under the provisions of section 1 (a), Act of July 2, 1940.

NEAL H. MCKAY,
Major, Quartermaster Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40-5335; Filed, December 5, 1940; 9:47 a. m.]

[Contract No. W 669 qm-8634 (O. I. No. 1013)]

SUMMARY OF A CONTRACT FOR SUPPLIES

CONTRACTOR: PEERLESS WOOLEN MILLS
(CONTRACTOR'S CODE NO. 72050)

Contract for: Blankets, Wool, Olive Drab.

Amount, \$1,804,000.00.

Place: Philadelphia Quartermaster Depot, Philadelphia, Pa.

This contract, entered into this 30th day of August 1940.

Scope of this contract. The contractor shall furnish and deliver f. o. b. Cars, place of manufacture, * * * Blankets, Wool, Olive Drab, M-1934, Type I, in the quantities and at the prices specified in attached Schedule of Supplies, for the consideration stated, totaling One million, eight hundred four thousand dollars (\$1,804,000.00), in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

Payments. The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants.

Delays—Liquidated damages. If the contractor refuses or fails to make delivery of the materials or supplies within the time specified in Article 1, or any extension thereof, the actual damage to the Government for the delay will be impossible to determine, and in lieu thereof the contractor shall pay to the Government, as fixed, agreed, and liquidated damages for each calendar day of delay in making delivery, the amount as set forth in the specifications or accompanying papers, and the contractor and his sureties shall be liable for the amount thereof.

Liquidated damages. Under the terms and conditions stipulated in Article 17 of this contract, the contractor shall pay to the Government, as liquidated damages, for each unit undelivered, a sum equal to * * * percentum of the price of each unit for each day's delay after the date or dates specified.

Bond: Furnished. Amount \$360,800.00. This contract authorized under Procurement Directive No. P-E-26.

NEAL H. MCKAY,
Major, Quartermaster Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40-5336; Filed, December 5, 1940; 9:47 a. m.]

[Contract No. W227-sc-2544]

SUMMARY OF A CONTRACT FOR SUPPLIES

CONTRACTOR: BENDIX RADIO CORPORATION,
920 EAST FORT AVENUE, BALTIMORE, MARYLAND

Contract for: Radio Equipment for Radio Compass SCR-269-A and associated equipment.

Amount: \$3,565,802.95.

Place: New York Signal Corps Procurement District, 1st Avenue and 58th Street, Brooklyn, New York.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to Procurement Authority SC-1313-P-5-3053-A-0605-01, the available balance of which is sufficient to cover the cost of same.

This Contract, entered into this 22nd day of October 1940.

ARTICLE 1. *Scope of this contract.* The contractor shall furnish and deliver to the Government in accordance with letter dated September 17, 1940, and pursuant to the authority contained in Section 1 (a) of the Act of Congress approved July 2, 1940, the articles as set forth more particularly in Article 16 hereof, for the consideration stated Three million five hundred sixty-five thousand eight hundred two dollars and ninety-five cents (\$3,565,802.95), in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

ART. 2. *Changes.* Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting offi-

cer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

ART. 8. *Payments.* The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

ART. 16. *Articles and supplies called for.* The contractor shall furnish and deliver to the Government all of the following:

| | |
|--|----------------|
| Item 1. * * * each Radio Equipment for Radio Compass SCR-269-A, total | \$2,843,406.80 |
| Item 2. * * * each Instruction Book for Radio Compass SCR-269-A, total | 5,148.00 |
| Item 3. * * * each Tube Set, vacuum, for Radio Compass SCR-269-A, total | 165,010.00 |
| Item 4. * * * each Cord CD-365, total | 29,132.80 |
| Item 5. * * * each Cord CD-365-A, total | 29,132.80 |
| Item 6. * * * each Mounting FT-213-A (spare), total | 1,281.80 |
| Item 7. * * * each Mounting FT-224-A (spare), total | 2,698.08 |
| Item 8. * * * each Loop LP-21-A (spare), total | 89,317.80 |
| Item 9. * * * each Indicator I-81-A (pilot's) (spare), total | 15,904.35 |
| Item 10. * * * each Indicator I-82-A (Navigator's) (spare), total | 25,137.42 |
| Item 11. * * * each Relay BK-22-A (spare), total | 22,776.60 |
| Item 12. * * * each Coupling MC-203 (spare), total | 2,358.51 |
| Item 13. * * * each Plug PL-122 (spare), total | 1,508.43 |
| Item 14. * * * each Plug PL-112 (spare), total | 900.90 |
| Item 15. * * * each Plug PL-118 (spare), total | 887.04 |
| Item 16. * * * each Chart MC-208 (spare), total | 235.62 |
| Item 17. * * * groups Spare Part Group for Items 1, 5 and 6 above, total | 330,966.00 |

ART. 20. *Performance Bond.* Bond, with surety satisfactory to the contracting officer, guaranteeing the faithful performance of the provisions of this contract shall be furnished herewith in the sum of twenty-five percent (25%) of the total consideration of this contract. Amount \$891,450.74.

ART. 22. *Delays—Liquidated damages.* If the contractor refuses or fails to make delivery of the materials or supplies within the time specified in Article 1, or any extension thereof, the actual damage to the Government for the delay will be impossible to determine, and in lieu thereof the contractor shall pay to the

Government, as fixed, agreed and liquidated damage for each calendar day of delay in making delivery, the amount as set forth in the specifications or accompanying papers, and the contractor and his sureties shall be liable for the amount thereof.

The amount of such liquidated damages will be one-tenth of one per cent (.1%) of the total contract price of all materials or supplies not delivered within the time specified for each and every calendar day of delay in making delivery of such materials or supplies, provided that in the event the amount of such liquidated damages so computed is less than \$10.00 per day for any one day liquidated damages shall be assessed and paid in the sum of \$10.00 for each and every calendar day of such delay in making deliveries as specified. Where contracts amount to \$10,000.00 or less, liquidated damages will be fixed at not less than \$10.00 per day.

In the event of any Liquidated Damages accruing as a result of this contract, the total amount of such Liquidated Damages shall not exceed fifteen (15%) percent of the total amount of this contract, including any increase applying thereto.

ART. 23. *Termination when contractor not in default.* If, in the opinion of the contracting officer upon the approval of the Secretary of War, the best interests of the Government so require, this contract may be terminated by the Government, even though the contractor be not in default, by a notice in writing relative thereto from the contracting officer to the contractor.

ART. 27. *Increase option.* The Government reserves the right within * * * calendar days from and after the date of receipt by the contractor of the approved number of the contract to increase the quantity or quantities of the supplies called for herein at not more than the unit prices stated, to any amount that would not exceed * * * percent of the entire contract price stipulated, said increase to be applied as to all or any item or items as set forth hereinabove at the option of the Government.

This contract authorized under the provisions of Section 10 (t), Act of July 2, 1926, and section 1 (a) of the Act of July 2, 1940.

NEAL H. MCKAY,
Major, Quartermaster Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40-5337; Filed, December 5, 1940;
9:48 a. m.]

[Contract W 6976 qm-1, O. I. No. 1-41]

**SUMMARY OF A COST-PLUS-A-FIXED-FEE
ARCHITECT-ENGINEER SERVICES**

ARCHITECT-ENGINEER: HOLMES & NARVER, INC., 639 SOUTH SPRING STREET, LOS ANGELES, CALIFORNIA

Amount fixed fee: \$36,440.00.
Estimated cost of construction project: \$6,018,773.00.

Type of construction project: Replacement center, including temporary buildings, utilities and appurtenances thereto.

Location: Nacimiento, California.

Type of service: Architectural-engineering.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to, Procurement Authority No. QM 7648 PI-3211 A 0540.068-N, the available balance of which is sufficient to cover the cost of same.

This Contract, entered into this 26th day of October 1940.

Description of the work. The Architect-Engineer shall perform all the necessary services provided under this contract for the following described project: Construction of a replacement center including the necessary buildings, at Nacimiento, California, and estimated to cost \$6,018,773.00.

Data to be furnished by the Government. The Government shall furnish the Architect-Engineer available schedules of preliminary data, layout sketches, and other information respecting sites, topography, soil conditions, outside utilities and equipment as may be essential for the preparation of preliminary sketches and the development of final drawings and specifications.

Fixed-fee and reimbursement of expenditures. In consideration for his undertakings under the contract, the Architect-Engineer shall be paid the following: A fixed fee in the amount of Thirty-Six Thousand Four Hundred Forty and No/100 Dollars (\$36,440.00) which shall constitute complete compensation for the Architect-Engineer's services.

Reimbursement for the following expenditures: The actual cost of expenditures made by the Architect-Engineer under the provisions of Article IV and Article VII of this contract, subject to the provisions of paragraph 1b, (2) above.

Payments shall be made on vouchers approved by the Contracting Officer on standard forms, as soon as practicable after the submission of statements, with original certified pay rolls, receipted bills for all expenses including materials, supplies and equipment, and all other supporting data and the amount of the Architect-Engineer's fixed fee earned.

All drawings, specifications, and blue prints are to become the property of the Government on completion of payments.

Changes in scope of project. The Contracting Officer may at any time, by a written order, make changes in the scope of the work contemplated by this contract.

The Government may terminate this contract at any time and for any cause by a notice in writing from the Contracting Officer to the Architect-Engineer.

This contract is authorized by the following laws:

Public No. 703—76th Congress, approved July 2, 1940.

Public No. 309—76th Congress, approved August 7, 1939.

NEAL H. MCKAY,
Major, Quartermaster Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40-5338; Filed, December 5, 1940;
9:48 a. m.]

[Contract No. W6976 qm-2, O. I. No. 2-41]

**SUMMARY OF A COST-PLUS-A-FIXED-FEE
CONSTRUCTION CONTRACT**

CONTRACTOR: FORD J. TWAITS CO., AND MORRISON-KNUDSEN COMPANY, INC., OF LOS ANGELES, CALIFORNIA AND BOISE, IDAHO, RESPECTIVELY

Fixed-Fee: \$193,400.00.

Contract for: The construction of a Replacement Center including necessary buildings, temporary structures, utilities and appurtenances thereto.

Place: Nacimiento, California.

Estimated cost of project: \$5,825,373.00.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following procurement authorities, the available balances of which are sufficient to cover the cost of the same: QM 7649 PL-3211 A 0540.068-N.

This Contract, entered into this 2nd day of November 1940.

Statement of work. The Contractor shall, in the shortest possible time, furnish the labor, materials, tools, machinery, equipment, facilities, supplies not furnished by the Government, and services, and do all things necessary for the completion of the following work: Construction of a replacement center including the necessary buildings at Nacimiento, California.

It is estimated that the total cost of the construction work covered by this contract will be approximately Five Million, Eight Hundred Twenty Five Thousand, Three Hundred Seventy-Three Dollars (\$5,825,373.00), exclusive of the Contractor's fee.

In consideration for his undertaking under this contract the Contractor shall receive the following:

(a) Reimbursement for expenditures as provided in article II.

(b) Rental for Contractor's equipment as provided in article II.

(c) A fixed fee in the amount of One Hundred Ninety Three Thousand Four Hundred Dollars (\$193,400.00) which shall constitute complete compensation for the Contractor's services, including profit and all general overhead expenses.

The Contracting Officer may, at any time, by a written order and without

notice to the sureties, make changes in or additions to the drawings and specifications, issue additional instructions, require additional work, or direct the omission of work covered by the contract.

The title to all work, completed or in the course of construction, shall be in the Government. Likewise, upon delivery at the site of the work or at an approved storage site and upon inspection and acceptance in writing by the Contracting Officer, title to all materials, tools, machinery, equipment and supplies, for which the Contractor shall be entitled to be reimbursed under article II, shall vest in the Government.

Reimbursement for cost. The Government will currently reimburse the Contractor for expenditures made in accordance with article II upon certification to and verification by the Contracting Officer of the original signed pay rolls for labor, the original paid invoices for materials, or other original papers. Generally, reimbursement will be made weekly but may be made at more frequent intervals if the conditions so warrant.

Rental for contractor's equipment. Rental as provided in article II for such construction plant or parts thereof as the Contractor may own and furnish shall be paid monthly upon presentation of proper vouchers.

Payment of the fixed-fee. The fixed-fee prescribed in article I shall be compensation in full for the services of the Contractor, including profit and all general overhead expenses. Ninety percent (90%) of said fixed-fee shall be paid as it accrues, in monthly installments based upon the percentage of the completion of the work as determined from estimates made and approved by the Contracting Officer. Upon completion of the work and its final acceptance, any unpaid balance of the fee shall be paid to the Contractor.

Termination of contract by Government. Should the Contractor at any time refuse, neglect, or fail to prosecute the work with promptness and diligence, or default in the performance of any of the agreements herein contained, or should conditions arise which make it advisable or necessary in the interest of the Government to cease work under this contract, the Government may terminate this contract by a notice in writing from the Contracting Officer to the Contractor.

This contract is authorized by the following law: Public Number 703—76th Congress, approved July 2, 1940.

NEAL H. MCKAY,
Major, Quartermaster Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40-5339; Filed, December 5, 1940;
9:48 a. m.]

[Contract No. W 978 eng-1443]

SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: SPERRY GYROSCOPE COMPANY, INC.

Contract for: * * * Searchlight Units, Model 1941, complete. Amount: \$7,060,650.00.

Place: Office, Chief of Engineers, 1st and M Sts. NE, Washington D. C.

This contract, entered into this ninth day of August 1940.

Scope of this contract. The contractor shall furnish and deliver * * * Searchlight Units, Model 1941, complete, for the consideration stated \$7,060,650.00, in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

Changes. Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

Payments. The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

Delays—Liquidated damages. If the contractor refuses or fails to make delivery of the materials or supplies within the time specified in Article 1, or any extension thereof, the actual damage to the Government for the delay will be impossible to determine, and in lieu thereof the contractor shall pay to the Government, as fixed, agreed, and liquidated damages for each calendar day of delay in making delivery, the amount as set forth in the specifications or accompanying papers, and the contractor and his sureties shall be liable for the amount thereof.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the Procurement Authorities shown herein, the available balances of which are sufficient to cover cost of same.

Procurement Authorities:

| | |
|---|----------------|
| Seacoast Defense, 1940-1941— Eng. 68 P12-3030 A 1205-01 | \$2,487,450.00 |
| Seacoast Defense, I. D., 1940-1941—Eng. 69 P12-3030 A 1210-01 | 254,182.00 |
| Seacoast Defense, Gen'l, 1940-1941—Eng. 72 P12-3030 A 1204-01 | 302,018.00 |
| Seacoast Defense, P. C., 1940-1941—Eng. 71 P12-3030 A 1215-01 | 478,950.00 |
| Engineer Service Army, 1940-1941—Eng. 82 P3-3030 A 0905-01 | 1,538,050.00 |
| Engineer Service Army, 1940-1941—Eng. 113 P3-3030 A (0905).115-01 | 2,000,000.00 |

L. M. JOHNSON,
Captain, C. W. S.,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40-5347; Filed, December 5, 1940;
10:09 a. m.]

[Contract No. W 535 ac-15519 (3623)]

SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: FAIRCHILD ENGINE AND AIR-PLANE CORPORATION, FAIRCHILD AIRCRAFT DIVISION

Contract for: * * * PT-19A Airplanes, Spare Parts and Data. Amount: \$1,038,300.00.

Place: Matériel Division, Air Corps, U. S. Army, Wright Field, Dayton, Ohio.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover cost of same:

AC 33 P 12-3037 A 0705.002-01— \$944,000.00
(Proj. 12)
AC 28 P 82-3037 A 0705-01— 94,300.00
(Proj. 82-1)

This contract, entered into this 15th day of August 1940.

1. *Scope of this contract.* The contractor shall furnish and deliver to the Government all of the airplanes, spare parts and data as set forth more particularly in Article 16 hereof, for the consideration stated not to exceed One Million Thirty Eight Thousand Three Hundred Dollars (\$1,038,300.00), in strict accordance with the specifications, schedules and drawings; all of which are made a part hereof.

2. *Changes.* Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

No. 237—2

5. *Delays—damages.* If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

8. *Payments.* The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

16. *Articles and data called for and payment therefor.* The Contractor shall furnish and deliver to the Government all of the following airplanes, spare parts and data at the prices hereinbelow indicated:

| | |
|--|--------------|
| Item 1. * * * Airplanes, primary training, total | \$943,000.00 |
| Item 2. Certain spare parts for all the airplanes at a total price not exceeding | 94,300.00 |
| Item 3. * * * Direct reading dark brown negatives, total not to exceed | 1,000.00 |

Partial payments will be made as the work progresses at the end of each calendar month or as soon thereafter as practicable on authenticated statements of expenditures of the Contractor approved by the Contracting Officer.

The Government shall furnish to the Contractor, without cost therefor, for installation in the airplanes called for under the terms of this contract, the equipment referred to in Item 1 of this Article as being Government-furnished and likewise all other equipment listed in Contractor's Specification No. 62201, as amended, or listed elsewhere in this contract as being Government furnished.

22. *Advance payments.* Advance payments may be made from time to time for the supplies called for, when the Secretary of War deems such action necessary in the interest of the National Defense: Provided, however, that the total amount of money so advanced shall not exceed 30 percentum of the contract price of the articles called for.

23. *Option.* The Government is granted the right and option at any time within * * * days after date of approval of this contract to increase the total number of airplanes called for under the terms of Item 1 of Article 16 hereof by any amount not exceeding * * * and to increase the total quantity of

spare parts called for under the terms of Item 2 of Article 16 hereof by any amount not exceeding * * * of the total money value of the additional airplanes which may be purchased under the terms of this Article.

24. *Termination when contractor not in default.* If, in the opinion of the Contracting Officer upon the approval of The Secretary of War, the best interests of the Government so require, this contract may be terminated by the Government, even though the contractor be not in default, by a notice in writing relative thereto from the Contracting Officer to the contractor.

35. *Fire insurance.* The contractor agrees to insure against fire all property in its possession upon which a partial payment is about to be made, such insurance to be in a sum at least equal to the amount of such payment plus all other partial payments.

Change Order

[Serial No. 3363; date 9/19/40¹]

WAR DEPARTMENT, AIR CORPS, MATERIEL DIVISION, WRIGHT FIELD, DAYTON, OHIO
FAIRCHILD ENGINE AND AIRPLANE CORPORATION,
FAIRCHILD AIRCRAFT DIVISION

Additional Airplanes

The Government hereby elects to exercise its right and option contained in Article 23 of Contract W 535 AC-15519 to increase the number of airplanes and spare parts to be furnished under the terms of Items 1 and 2 of Article 16 of said contract.

The lot quantity of airplanes, Primary Training being purchased under the terms of Contract W 535 AC-15519, is hereby increased to * * *, total additional cost \$6,068,070.00

The lot quantity of spare parts called for under the terms of Item 2 of Article 16 of Contract W 535 AC-15519 is increased from a total money value of not to exceed \$94,300.00 to a total maximum cost of not to exceed \$697,930.00, total additional cost of 603,630.00

* * * Handbook of Instructions, with Parts Catalog and Price List Compilation, covering the additional airplanes to be furnished under terms of this Change Order prepared in accordance with the current issue of Air Corps Specification No. 40102, at a cost of 500.00

It is understood and agreed that certain plant facilities in addition to those now available to the Contractor will be required by the Contractor to enable him to comply with the delivery schedule pertaining to the additional * * * airplanes called for and herein contained. If an agreement satisfactory to the Con-

¹ Change No. 1, Contract No. W 535-AC-15519, dated Aug. 15, 1940.

tractor providing for the construction or acquisition of such facilities is not entered into and, if required, approved then and in that event negotiations shall, at the written request of the Contractor delivered to the Contracting Officer, be entered into by and between the Contractor and the Contracting Officer for the amendment of such delivery schedule.

Price adjustments. The contract prices stated in this contract for Airplanes and Spare Parts are subject to adjustments for changes in labor costs.

It is expressly agreed that quotas for labor will not be altered on account of delays in the completion of the airplanes and spare parts.

It is expressly understood and agreed by both parties hereto that the Contractor hereby agrees:

To pay into the Treasury profit, as hereinafter provided shall be determined by the Treasury Department, in excess of 12 percentum of the total contract prices, of such contracts within the scope of the law as are completed by the particular contracting party within the income taxable year.

This contract authorized under the provisions of section 1 (a), Act of July 2, 1940.

L. M. JOHNSON,
Captain, C. W. S.
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40-5345; Filed, December 5, 1940;
10:09 a. m.]

[Contract No. W 535 ac-15675 (3665)]

SUMMARY OF CONTRACT FOR SUPPLIES
CONTRACTOR: BELL AIRCRAFT CORPORATION

Contract for: * * * P-39D Airplanes, Spare Parts & Data.

Amount: \$4,962,220.00.

Place: Matériel Division, Air Corps, U. S. Army, Wright Field, Dayton, Ohio.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover costs of same:

AC 34 P 12-3037 A 0705-01----- \$4,511,200.00
AC 28 P 82-3037 A 0705-01----- 451,020.00

This contract, entered into this 7th day of September 1940.

1. Scope of this contract. The contractor shall furnish and deliver to the Government all of the airplanes, spare parts and data as set forth more particularly in Article 16 hereof, for the consideration stated Four Million Nine Hundred Sixty Two Thousand Two Hundred Twenty Dollars (\$4,962,220.00), in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

2. Changes. Where the supplies to be furnished are to be specially manufac-

tured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

5. Delays—Damages. If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

8. Payments. The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated, herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

16. Articles and supplies called for and payment therefor. The Contractor shall furnish and deliver to the Government the following articles and data:

| | |
|--|----------------|
| Item 1. * * * Airplanes. | |
| Pursuit, Single-Place, Single-Engine, total----- | \$4,510,200.00 |
| Item 2. Certain spare parts for all of the airplanes at a total price not exceeding----- | 451,020.00 |
| Item 3. * * * Direct Reading Dark Brown Negatives, total not to exceed----- | 1,000.00 |

Partial payments will be made as the work progresses at the end of each calendar month or as soon thereafter as practicable on authenticated statements of expenditures of the Contractor approved by the Contracting Officer.

The Government shall furnish to the Contractor, without cost therefor, for installation in the airplanes called for under the terms of this contract the equipment referred to in Contractor's Specification Report No. 4Y003-G, hereinbefore referred to or listed elsewhere in this contract as being Government-furnished.

22. Advance payments. Advance payments may be made from time to time for the supplies called for, when the Secretary of War deems such action necessary in the interest of the National Defense.

23. Option. The Government is granted the right and option at any time within * * * after date of approval of this contract to increase the total number of airplanes called for under the terms of Item 1 of Article 16 hereof.

25. Price adjustment. The contract prices stated in this contract for airplanes

and spare parts are subject to adjustments for changes in labor and material costs.

It is expressly agreed that quotas for labor will not be altered on account of delays in the completion of the airplanes and spare parts.

27. Termination when contractor not in default. If, in the opinion of the Contracting Officer upon the approval of the Secretary of War, the best interests of the Government so require, this contract may be terminated by the Government, even though the contractor be not in default, by a notice in writing relative thereto from the Contracting Officer to the contractor.

It is expressly understood and agreed by both parties hereto that the contractor hereby agrees:

To pay into the Treasury profit, as hereinafter provided shall be determined by the Treasury Department, in excess of 12 per centum of the total contract prices, of such contracts within the scope of the law as are completed by the particular contracting party within the income taxable year.

37. Title to property where partial payments are made. The title to all property upon which any partial payment is made prior to the completion of this contract, shall vest in the Government.

39. Fire insurance. The contractor agrees to insure against fire all property in its possession upon which a partial payment is about to be made.

Change Order

[Serial No. 3342. Date 9/11/40¹]

WAR DEPARTMENT AIR CORPS, MATÉRIEL DIVISION, WRIGHT FIELD, DAYTON, OHIO
BELL AIRCRAFT CORPORATION, BUFFALO, NEW YORK. ADDITIONAL AIRPLANES.

The Government hereby elects to exercise its right and option contained in Article 23 of Contract W 535 ac-15675 to increase the number of airplanes and spare parts to be furnished under the terms of Items 1 and 2, respectively, of Article 16 of said contract and it is mutually understood and agreed between the parties hereto that so many of the provisions of the contract as are affected by said increases are changed as set forth hereinbelow:

The lot quantity of airplanes, Pursuit, Single-Place, Single-Engine, being purchased under the terms of Contract W 535 ac-15675, is hereby increased to * * *. Total additional cost, \$18,087,880.00.

The lot quantity of spare parts called for under the terms of Contract No. W 535 ac-15675 as changed by this Change Order is increased from a money value of \$451,020.00 to a money value of \$2,259,808.00, total additional cost, \$1,808,788.00.

It is understood and agreed that certain plant facilities in addition to those now available to the Contractor will be required by the Contractor to enable him to comply with the delivery schedule

¹ Change No. 1 to Contract No. W535 ac-15675 dated Sept. 7, 1940.

herein contained. If an agreement satisfactory to the Contractor, providing for the construction or acquisition of such facilities, is not entered into and, if required, approved on or before * * * then and in such event negotiations shall, at the written request of the Contractor delivered to the Contracting Officer, be entered into by and between the Contractor and the Contracting Officer for the amendment of such delivery schedule. If no agreement on such amendment be reached within * * * days from the date of delivery of such request, then the Contractor shall have the right, at any time thereafter and prior to the execution and approval, if required, of an agreement providing for the facilities required as hereinbefore stated, to demand in writing of the Contracting Officer that the Government terminate this Contract No. W 535 ac-15675 and Change Order, upon the terms and conditions stated in Article 27 of said contract, and the Government agrees in such event to so terminate.

It is expressly understood and agreed by both parties hereto that the contractor hereby agrees:

To pay into the Treasury profit, as hereinafter provided shall be determined by the Treasury Department, in excess of 12 per centum of the total contract prices, of such contracts within the scope of the law as are completed by the particular contracting party within the income taxable year.

Procurement Authorities:

| | |
|-------------------------|-----------------|
| Debit AC 34 P 12-3037 A | |
| 0705-01----- | \$18,087,880.00 |
| AC 28 P 82-3037 A | |
| 0705-01----- | \$1,808,788.00 |

This contract authorized under the provisions of section 1 (a), Act of July 2, 1940.

NEAL H. MCKAY,
Major, Quartermaster Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40-5344; Filed, December 5, 1940;
10:08 a. m.]

[Contract No. W 535 ac-15923 (3758)]

SUMMARY OF CONTRACT FOR SUPPLIES
CONTRACTOR: BOEING AIRPLANE COMPANY,
STEARMAN AIRCRAFT DIVISION

Contract for: * * * PT-17 Airplanes, Parts, and Data.

Amount: \$6,934,096.00.

Place: Matériel Division, Air Corps, U. S. Army, Wright Field, Dayton, Ohio.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover cost of same:

AC 34 P 12-3037 A 0705-01----- \$6,305,728.00
AC 28 P 82-3037 A 0705-01----- 628,368.00

This contract, entered into this 14th day of September 1940.

1. *Scope of this contract.* The contractor shall furnish and deliver to the Government all of the articles and data set forth in Article 16 hereof for the consideration stated, Six Million Nine Hundred Thirty Four Thousand Ninety Six Dollars (\$6,934,096.00), in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

2. *Changes.* Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

5. *Delays—Damages.* If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

8. *Payments.* The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

16. *Articles and supplies called for and payment therefor.* The Contractor shall furnish and deliver to the Government all of the following articles and data in the quantities and at the prices indicated below:

| | |
|---|----------------|
| Item 1. * * * Airplanes, Training (Primary), at a total cost of----- | \$6,305,728.00 |
| Item 2. Certain spare parts for the airplanes, the total price of spare parts not to exceed----- | 628,368.00 |
| Item 3. * * * Direct Read- ing, Dark Brown Negatives. | |

Partial payments will be made as the work progresses at the end of each calendar month or as soon thereafter as practicable on authenticated statements of expenditures of the Contractor approved by the Contracting Officer.

23. *Termination when contractor not in default.* If, in the opinion of the Contracting Officer upon the approval of The Secretary of War, the best interests of the Government so require, this contract may be terminated by the Government, even though the contractor be not in default, by a notice in writing relative

thereto from the Contracting Officer to the contractor.

It is expressly understood and agreed by both parties hereto that the contractor hereby agrees:

To pay into the Treasury profit, as hereinafter provided shall be determined by the Treasury Department, in excess of 12 per centum of the total contract prices, of such contracts within the scope of the law as are completed by the particular contracting party within the income taxable year.

33. *Title to property where partial payments are made.* The title to all property upon which any partial payment is made prior to the completion of this contract, shall vest in the Government.

35. *Fire insurance.* The contractor agrees to insure against fire all property in its possession upon which a partial payment is about to be made, such insurance to be in a sum at least equal to the amount of such payment plus all other partial payments.

38. *Advance payments.* Advance payments may be made from time to time for the supplies called for, when the Secretary of War deems such action necessary in the interest of the National Defense: *Provided, however,* That the total amount so advanced shall not exceed 30 per centum of the contract price of the articles called for.

It is expressly agreed that quotas for Labor will not be altered on account of delays in the completion of the said contract.

40. *Special condition.* It is understood and agreed that certain plant facilities in addition to those now available to the Contractor will be required by the Contractor to enable it to comply with the delivery schedules set forth in Article 17 of this contract. If an agreement satisfactory to the Contractor, providing for the construction or acquisition of such facilities, is not entered into, and approved on or before * * *, then and in such event negotiations shall, at the written request of the Contractor delivered to the Contracting Officer, be entered into by and between the Contractor and the Contracting Officer for the amendment of such delivery schedules.

This contract authorized under the provisions of section 1 (a), Act of July 2, 1940.

L. M. JOHNSON,
Captain, C. W. S.
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40-5346; Filed, December 5, 1940;
10:09 a. m.]

[Contract No. W227-sc-2524; File No.
1246-NY-41; OCSO-DP-41-624]

SUMMARY OF CONTRACT FOR SUPPLIES
CONTRACTOR: WESTERN ELECTRIC COMPANY,
300 CENTRAL AVENUE, KEARNY, NEW JER-
SEY

Contract for: Radio receiving and transmitting components for radio sets

SCR-()-183 and SCR-()-283 and associated equipment.

Amount: \$3,585,954.70.

Place: New York Signal Corps Procurement District, 1st Avenue and 58th Street, Brooklyn, New York.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to Procurement Authority SC-1313-P-5-3053-A-0605-01, the available balance of which is sufficient to cover the cost of same.

This contract, entered into this 16th day of October, 1940.

1. *Scope of this contract.* The contractor shall furnish and deliver to the Government in accordance with its letter dated September 30, 1940, and pursuant to the authority contained in section 1 (a) of the Act of Congress approved July 2, 1940, the articles as set forth more particularly in Article 16 hereof, for the consideration stated, Three million five hundred eighty-five thousand nine hundred fifty-four dollars and seventy cents (\$3,585,954.70), in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

2. *Changes.* Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

8. *Payments.* The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

16. *Articles and supplies called for.* The contractor shall furnish and deliver to the Government all of the following:

| | |
|--|----------------|
| Item 1. * * * each, radio receiving and transmitting components for radio set SCR-()-183, and parts, total | \$2,165,500.80 |
| Item 2. * * * each, radio receiving and transmitting components for radio set SCR-()-283, and parts, total | 791,683.20 |
| Item 4. * * * each, instruction book for radio set SCR-()-183 and radio set SCR-()-283, and part No. 22, total | 5,460.00 |
| Item 5. * * * sets, tube set, vacuum, for radio set SCR-()-183 and radio set SCR-()-283, and parts, total | 188,629.20 |

| | |
|--|------------|
| Item 6. * * * groups, spare part group for Item 1 above, total | 316,132.00 |
| Item 7. * * * groups, spare part group for Item 2 above, total | 118,549.50 |

20. *Performance bond.* Bond, with surety satisfactory to the contracting officer, guaranteeing the faithful performance of the provisions of this contract shall be furnished herewith in the sum of twenty-five percent (25%) of the total consideration of this contract.

Amount: \$896,488.68.

22. *Delays—Liquidated damages.* If the contractor refuses or fails to make delivery of the materials of supplies within the time specified in Article 1, or any extension thereof, the actual damage to the Government for the delay will be impossible to determine, and in lieu thereof the contractor shall pay to the Government, as fixed, agreed, and liquidated damage for each calendar day of delay in making delivery, the amount as set forth in the specifications or accompanying papers, and the contractor and his sureties shall be liable for the amount thereof.

The amount of such liquidated damages will be one-tenth of one percent (0.1%) of the total contract price of all materials or supplies not delivered within the time specified for each and every calendar day of delay in making delivery of such materials or supplies, provided that in the event the amount of such liquidated damages so computed is less than \$10.00 per day for any one day liquidated damages shall be assessed and paid in the sum of \$10.00 for each and every calendar day of such delay in making deliveries as specified.

In the event of any Liquidated Damages accruing as a result of this contract, the total amount of such Liquidated Damages shall not exceed ten (10%) percent of the total amount of this contract, including any increase applying thereto.

23. *Termination when contractor not in default.* If, in the opinion of the contracting officer upon the approval of the Secretary of War, the best interests of the Government so require, this contract may be terminated by the Government, even though the contractor be not in default, by a notice in writing relative thereto from the contracting officer to the contractor.

27. *Increase option.* The Government reserves the right at any time within * * * months from and after date of receipt by the contractor of the approved number of the contract to increase the quantity or quantities of the supplies called for herein.

This contract authorized under the provisions of section 10 (t), Act of July 2, 1926, and section 1 (a) of the Act of July 2, 1940 (Pub. 703, 76th Congress).

NEAL H. MCKAY,
Major, Quartermaster Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40-5343; Filed, December 5, 1940;
10:08 a. m.]

[Contract No. W 6148 qm-123; O. I. No. 41-18 CQM]

SUMMARY OF COST-PLUS-A-FIXED-FEE ARCHITECT-ENGINEER SERVICES

ARCHITECT-ENGINEER: PARSONS, KLAPP, BRINCKERHOFF & DOUGLAS, 142 MAIDEN LANE, NEW YORK, NEW YORK.

Amount fixed fee: \$25,300.00.

Estimated cost of construction project: \$3,197,154.00.

Type of construction project: Construction of a Cantonment Camp and Replacement Center, including necessary buildings, temporary structures, utilities and appurtenances thereto.

Location: Fort Monmouth, New Jersey.
Type of service: Architect-Engineer.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to, Procurement Authority No. QM 7929 PL-3211 A 0540.068-N, the available balance of which is sufficient to cover the cost of same.

This contract, entered into this 29th day of October 1940.

Description of the work. The Architect-Engineer shall perform all the necessary services provided under this contract for the following described project: Construction of a Cantonment Camp and Replacement Center, including necessary buildings, at Fort Monmouth, New Jersey, and estimated to cost \$3,197,154.00.

Data to be furnished by the Government. The Government shall furnish the Architect-Engineer available schedules of preliminary data, layout sketches, and other information respecting sites, topography, soil conditions, outside utilities and equipment as may be essential for the preparation of preliminary sketches and the development of final drawings and specifications.

Fixed-fee and reimbursement of expenditures. In consideration for his undertakings under the contract, the Architect-Engineer shall be paid the following: A fixed fee in the amount of Twenty Five Thousand Three Hundred Dollars (\$25,300.00) which shall constitute complete compensation for the Architect-Engineer's services.

Reimbursement for the following expenditures. The actual cost of expenditures made by the Architect-Engineer under the provisions of Article IV and Article VII of this contract, subject to the provisions of paragraph 1 b. (2) above.

Payments shall be made on vouchers approved by the Contracting Officer on standard forms, as soon as practicable after the submission of statements, with original certified payrolls, receipted bills for all expenses including materials, supplies and equipment, and all other supporting data and the amount of the Architect-Engineer's fixed fee earned.

All drawings, specifications, and blue prints are to become the property of the Government on completion of payments.

Changes in scope of project. The Contracting Officer may at any time, by a

written order, make changes in the scope of the work contemplated by this contract.

The Government may terminate this contract at any time and for any cause by a notice in writing from the Contracting Officer to the Architect-Engineer.

This contract is authorized by the following laws:

Public No. 309—76th Congress—Approved August 7, 1939.

Public No. 703—76th Congress—Approved July 2, 1940.

NEAL H. MCKAY,
Major, Quartermaster Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40-5341; Filed, December 5, 1940;
10:08 a. m.]

[Contract No. W 6148 qm-124; O. I. No. 41-19
CQM]

**SUMMARY OF COST PLUS A FIXED FEE
CONSTRUCTION CONTRACT**

Contractor: The Tuller Construction Co., and Wigton-Abbott Corporation, of 95 Monmouth Street, Red Bank, New Jersey, and 1225 South Avenue, Plainfield, New Jersey, respectively.

Fixed-fee: \$127,395.00.

Contract for: Construction of a Cantonment Camp and Replacement Center, including necessary buildings, temporary structures, utilities, and appurtenances thereto.

Place: Fort Monmouth, New Jersey.

Estimated Cost of project: \$3,069,759.00.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following procurement authorities, the available balances of which are sufficient to cover the cost of the same: QM 7930 P1-3211 A 0540.068-N.

This contract, entered into this 29th day of October 1940.

Statement of work. The Contractor shall, in the shortest possible time, furnish the labor, materials, tools, machinery, equipment, facilities, supplies not furnished by the Government, and services, and do all things necessary for the completion of the following work: Construction of a Cantonment Camp and Replacement Center, including necessary buildings at Fort Monmouth, New Jersey.

It is estimated that the total cost of the construction work covered by this contract will be approximately Three Million Sixty Nine Thousand Seven Hundred Fifty-Nine Dollars (\$3,069,759.00), exclusive of the Contractor's fee.

In consideration for his undertaking under this contract the Contractor shall receive the following:

(a) Reimbursement for expenditures as provided in article II.

(b) Rental for Contractor's equipment as provided in article II.

(c) A fixed fee in the amount of One Hundred Twenty Seven Thousand Three Hundred Ninety-Five Dollars (\$127,395.00), which shall constitute complete compensation for the Contractor's services, including profit and all general overhead expenses.

The Contracting Officer may, at any time, by a written order and without notice to the sureties, make changes in or additions to the drawings and specifications, issue additional instructions, require additional work, or direct the omission of work covered by the contract.

The title to all work, completed or in the course of construction, shall be in the Government. Likewise, upon delivery at the site of the work or at an approved storage site and upon inspection and acceptance in writing by the Contracting Officer, title to all materials, tools, machinery, equipment and supplies, for which the Contractor shall be entitled to be reimbursed under article II, shall vest in the Government.

Reimbursement for cost. The Government will currently reimburse the Contractor for expenditures made in accordance with article II upon certification to and verification by the Contracting Officer of the original signed pay rolls for labor, the original paid invoices for materials, or other original papers. Generally, reimbursement will be made weekly but may be made at more frequent intervals if the conditions so warrant.

Rental for contractor's equipment. Rental as provided in article II for such construction plant or parts thereof as the Contractor may own and furnish shall be paid monthly upon presentation of proper vouchers.

Payment of the fixed-fee. The fixed-fee prescribed in article I shall be compensation in full for the services of the Contractor, including profit and all general overhead expenses. Ninety percent (90%) of said fixed-fee shall be paid as it accrues, in monthly installments based upon the percentage of the completion of the work as determined from estimates made and approved by the Contracting Officer. Upon completion of the work and its final acceptance, any unpaid balance of the fee shall be paid to the Contractor.

Termination of contract by Government. Should the Contractor at any time refuse, neglect, or fail to prosecute the work with promptness and diligence, or default in the performance of any of the agreements herein contained, or should conditions arise which make it advisable or necessary in the interest of the Government to cease work under this contract, the Government may terminate this contract by a notice in writing from the Contracting Officer to the Contractor.

This contract is authorized by the following law:

Public No. 703—76th Congress,
Approved July 2, 1940.

NEAL H. MCKAY,
Major, Quartermaster Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40-5342; Filed, December 5, 1940;
10:08 a. m.]

NAVY DEPARTMENT.

Bureau of Aeronautics.

[NOd 1604]

**SUMMARY OF CONTRACT FOR ACQUISITION
OF LAND AND BUILDINGS**

CONTRACTOR: FOOTE BROTHERS GEAR &
MACHINE CORPORATION, CHICAGO, ILLINOIS

NOVEMBER 28, 1940.

Under date of November 13, 1940, the Navy Department entered into a contract with Foote Brothers Gear & Machine Corporation for the acquisition of additional land and buildings in Chicago, Illinois, and the acquisition and installation therein of additional machinery and plant equipment, at a total estimated cost of \$1,020,000.00.

The contract is substantially the form of the Emergency Plant Facilities Contract approved by the Advisory Commission to the Council of National Defense and published in the FEDERAL REGISTER on October 19, 1940.

J. H. TOWERS,
Rear Admiral, U. S. N.,
Chief of the Bureau of Aeronautics.

[F. R. Doc. 40-5333; Filed, December 5, 1940;
9:47 a. m.]

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. A-304]

PETITION OF THE PURSGLOVE COAL MINING COMPANY, A CODE MEMBER IN DISTRICT NO. 3, FOR A REDUCTION IN THE EFFECTIVE MINIMUM PRICES FOR THE COALS OF ITS PURSGLOVE NO. 2 MINE (MINE INDEX NO. 120) IN SIZE GROUP 10 FOR SHIPMENT INTO MARKET AREAS 2 TO 16, INCLUSIVE, 20, 21 AND 100

MEMORANDUM OPINION AND ORDER CONCERNING PRAYER FOR TEMPORARY RELIEF

The original petitioner in the above-entitled matter prays for the issuance by the Director of preliminary or temporary and final orders so revising the Schedule of Effective Minimum Prices for District No. 3 for All Shipments Except Truck as to permit the coals of petitioner's Pursglove No. 2 Mine (Mine Index No. 120) in Size Group 10 to deliver into all market areas (except via lake and for special uses) at prices 10 cents below those established for such coals in Size Group 9.

(Petitioner is particularly interested in shipments by rail into Market Areas 2-16, 20, 21, and 100, inclusive.)

On November 25, 1940, an informal conference concerning the prayer for temporary relief was held by this Division, pursuant to § 301.106 (d) of the Rules and Regulations Governing Practice and Procedure in 4 II (d) Proceedings. The conference was held on notice to the Bituminous Coal Producers Boards for Districts Nos. 1-4 and 6-8, the Statistical Bureaus for Districts Nos. 1-4 and 6-8, the Consumers' Counsel Division, Office of the Solicitor, Department of the Interior, and the petitioner. The petitioner was instructed in turn to notify all parties named in the petition and other persons likely to be interested; the District Board was requested to notify all persons likely to be interested; and the Statistical Bureaus were instructed to post notices of the conference in their respective offices.

The following persons were represented at the informal conference: The petitioner, Consolidation Coal Company, District Boards Nos. 1, 2, 3, and 4, and the Consumers' Counsel Division. All District Boards expressly appeared in opposition to the petitioner's prayer for temporary relief.

Davis-Wilson Coal Company and Louise Coal Company, code member producers in District No. 3, producing coals from the same (the Sewickley) seam as the petitioner, did not appear at the informal conference but jointly filed a petition of intervention alleging that their coals in the $\frac{3}{8}'' \times 0$ size (Size Group 10) do compete with the comparably-sized coals of the original petitioner, not only in the market areas set forth in the original petition, but in Market Area 1 as well—and that, if the relief requested by original petitioner is granted to it and similar relief is not granted to the intervening petitioners, the competitive position of the latter will be adversely affected; and praying that if any relief is granted to the petitioner, Pursglove Coal Mining Company, similar relief be granted to Davis-Wilson and Louise Coal Companies.

It appears that the original petitioner requests the establishment of a price differential of 10 cents between the delivered prices for the $\frac{3}{4}'' \times 0$ coals of its Pursglove No. 2 mine and the $\frac{3}{8}'' \times 0$ coals of that mine particularly for shipment by rail to Market Areas 2-16, 20, 21, and 100, on the grounds that the smaller $\frac{3}{8}'' \times 0$ slacks are physically and analytically inferior to the larger slacks of the Pursglove No. 2 mine and of the other mines of the Sewickley seam in District No. 2; that the minimum prices for the Pursglove No. 2 $\frac{3}{8}'' \times 0$ slacks are improperly coordinated with those for the $\frac{3}{4}'' \times 0$ and other slack coals, not only of the Sewickley seam but of other seams in Districts Nos. 2 and 3; that the market history of such $\frac{3}{8}'' \times 0$ coals reflects their inferiority to the larger slacks; and that the absence of the requested

price differential has resulted in a loss to the petitioner of markets both for its $\frac{3}{8}'' \times 0$ coals and for pea or stoker coals, of which the $\frac{3}{8}'' \times 0$ size is a resultant.

From the statements of the petitioner's representatives at the informal conference, as supplemented by the informal exhibits filed with the Division at the conference and subsequent thereto, it appears further that production at the Pursglove No. 2 mine, since October 1, 1940, has been approximately 90% of capacity; that approximately 7,000 tons of $\frac{3}{8}'' \times 0$ coals have been sold and shipped, by rail and river, from that mine during the period of October 1 to November 22, 1940, at the effective minimum prices; and that the mine has been open during that period and has operated the normal amount of working days. The petitioner states that some 3,000 tons of $\frac{3}{8}'' \times 0$ slacks have been stored on the ground and approximately 500 tons on track because of its inability to dispose of them at effective minimum prices, but it seems that similar conditions exist at mines other than the Pursglove No. 2 mine and affect coals in sizes other than the $\frac{3}{8}'' \times 0$ size. It is not clear that failure to dispose of the Pursglove No. 2 $\frac{3}{8}'' \times 0$ coals and the consequent hindrance to marketing of pea coals are caused by the effective minimum prices now established.

It further appears that the issues involved in this matter are substantial; that the coordination among minimum prices for the coals of Districts Nos. 2, 3, and 4, among other districts, is involved; and that District Boards Nos. 1, 2, 3, and 4 are opposed to the granting of temporary relief.

It should be noted that the issue raised in this proceeding was raised by the petitioner in General Docket No. 15, and that similar relief requested there was denied by the Examiners, by the Director, and by the Secretary of the Interior. The actual conditions at the petitioner's mine and the reasons for such conditions should be explored further before the effective minimum prices established in General Docket No. 15 are revised.

There was no showing that petitioner would be substantially injured by the failing to grant temporary relief pending final disposition of this matter. The petitioner's representatives stated that no $\frac{3}{8}'' \times 0$ coals were stored on the ground during the weeks preceding the conference, and that, although it was contemplated that it might be necessary to store such coals in the near future, the amount which might have to be stored could not accurately be estimated. Furthermore, there is no reason to expect that the substantial river shipments and occasional rail shipments of that size will cease before the final hearing. On the other hand, as noted above, the granting of temporary relief may seriously affect the competitive opportunities of competing coals of District No. 3 and other districts.

The Director has carefully considered the request for temporary relief, the views expressed, and data submitted in

connection therewith at the informal conference. The Director finds that petitioner has made no adequate showing of actual or impending injury in the event that temporary relief is not granted, that the granting of this relief would unduly prejudice other interested persons in advance of a hearing, and that no sufficiently clear showing has been made that petitioner is entitled to the relief prayed.

In view of the foregoing circumstances and findings and the fact that the Director, by Order dated November 28, 1940, has scheduled a final hearing in this matter to commence on December 16, 1940, in which all interested parties will be afforded an opportunity to participate, the Director is of the opinion that the temporary relief prayed for should not be granted at this time.

Accordingly, it is so ordered.

Dated: December 3, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-5331; Filed, December 4, 1940;
3:16 p. m.]

[Docket No. FD-A-1]

PETITION OF DISTRICT BOARD NO. 11 FOR RELIEF IN RESPECT TO COMPETITION BETWEEN DISTRICT NO. 11 CODE MEMBERS AND VARIOUS VENDORS OF EXISTING STOCKS OF COAL ON DOCKS LOCATED ON LAKE SUPERIOR AND LAKE MICHIGAN, AND RELATED MATTERS

MEMORANDUM OPINION AND ORDER EXTENDING TEMPORARY RELIEF TO INTERVENOR SAHARA COAL COMPANY

On October 9, 1940, the Director issued an order in the above-entitled matter, granting temporary relief to the original petitioner and to intervener Carter Coal Company, which had specifically prayed that any relief accorded to the original petitioner be likewise extended to it as an intervening party similarly affected by the circumstances of which the original petition complained. That order specifically provided that any other persons eligible to become parties in this proceeding might file an application, supported by a reasonable showing of necessity, for the extension to them of the same relief.

A petition of intervention, specifically praying for the same temporary relief granted to the original petitioner, has been filed by Sahara Coal Company (the "intervener"). It appears that the coals produced by intervener are sold in Market Areas 42, 43, 45, and 46, and compete with other coals sold therein. The situation of intervener in respect to the competition of coal stored on docks in Market Areas 42, 43, 45, and 46, prior to October 1, 1940, by unregistered distributors, who are not subsidiaries, affiliates, or subject to the control of code members, and as to whom no specific sanctions for violations of the effective minimum prices are presently available, is thus apparently essentially the same as that of code members in District 11 or intervener Carter

Coal Company. It thus appears that there is a reasonable necessity for the extension to intervener of the same temporary relief granted to the original petitioner and to intervener Carter Coal Company.

Accordingly, intervener, in order to retain business enjoyed by it, which is threatened by the competition of coal stored by an unregistered distributor on docks in Market Areas 42, 43, 45, and 46, prior to October 1, 1940, may on or before 3:30 p. m. of any business day except Saturday, and on or before 11 a. m. Saturday, telegraph to the Statistical Bureau for District 10, a "request" for a reduction, not to exceed 50 cents, in the effective minimum prices for a specified size and quality of coal produced by a designated mine, for shipment to a specified consumer in Market Areas 42, 43, 45, or 46.

Upon the same day that such telegram (the "request") is dispatched, or by 11 a. m. of the succeeding business day, intervener shall supply the statistical bureau with an affidavit confirming the contents of the request. This affidavit shall specify how long the intervener has enjoyed the business of the consumer in question, together with the latter's name and location, the type of equipment in which the coal is to be used, the amount of tonnage involved, the name and location of the unregistered dock operator who threatens to take the business, and the price at which it is believed that the business can be retained by intervener. If the name and location of the unregistered dock operator are unknown to intervener, the affiant shall state, so far as he is able to do so, the probable identity and location of such person and the terms of his offer. Such affidavit, if based on knowledge of the affiant, shall so state. If based on information and belief, the affidavit shall state specifically the source of the information, and also the circumstances upon the basis of which the affiant believes the information to be true.

Within twenty-four hours after the "request," or as soon thereafter as possible, the Director will notify intervener by telegram whether or not the requested reduction may be made, a copy of which will be made available for inspection in this proceeding. If no such telegram is delivered to the intervener within forty-eight hours after the "request", the "request" is automatically granted and the intervener may make the reduction as requested. The specifications of time herein exclude Saturday afternoons, Sundays and legal holidays.

Temporary relief as indicated herein is accordingly granted to intervener Sahara Coal Company.

Dated: December 3, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-5330; Filed, December 4, 1940;
3:15 p. m.]

[Docket No. 1482-FD]

IN THE MATTER OF BUCK KNOB COAL COMPANY, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated November 20, 1940, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on November 25, 1940, by Bituminous Coal Producers Board for District No. 9, complainant, with the Bituminous Coal Division alleging wilful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, that a hearing in respect to the subject matter of such complaint be held on January 6, 1941, at 10 a. m. at a hearing room of the Bituminous Coal Division at the County Court House, Madisonville, Kentucky.

It is further ordered, that Charles O. Fowler or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bituminous Coal Division at its Washington Office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging wilful violation by the above named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows: by selling to Jesse Violette, Russellville, Kentucky, a trucker, on or about November 1, 1940, 4 tons of screenings (1 1/4") coal at 50 cents per ton f. o. b. the mine, being 70 cents below the effective minimum price for such coal of \$1.20 per ton f. o. b. the mine.

Dated: December 3, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-5329; Filed, December 4, 1940;
3:15 p. m.]

[Docket No. 1483-FD]

IN THE MATTER OF HARRY OATES,
DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated November 19, 1940, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on November 27, 1940, by W. W. Crick, a member of District Board No. 9, complainant, with the Bituminous Coal Division alleging wilful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on January 6, 1941, at 10 a. m. at a hearing room of the Bituminous Coal Division at the County Court House, Madisonville, Kentucky.

It is further ordered, That Charles O. Fowler or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in

the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bituminous Coal Division at its Washington Office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows: By selling to George Steele, Hopkinsville, Kentucky, on or about November 12, 1940, 5 $\frac{1}{2}$ tons of bituminous coal produced at his Oates mine in Hopkins County, Kentucky, for which minimum prices, temporary or final, had not been established by the Division, in violation of the Order of the Director dated October 9, 1940 "In The Matter of Promulgating An Order Making Limited Prohibitions Against The Sale of Coal For Which No Minimum Prices, Temporary or Final, Have Been Established", General Docket No. 19.

Dated: December 3, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-5328; Filed, December 4, 1940;
3:14 p. m.]

[Docket No. A-171]

PETITION OF DISTRICT BOARD 13 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE

COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED

NOTICE OF AND ORDER FOR HEARING AND GRANTING TEMPORARY RELIEF

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on December 9, 1940, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street, N. W., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Charles O. Fowler or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 30, 1940.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the establishment of effective minimum prices for the coals of certain mines, hereinafter referred to, located in District 13, for which coals price clas-

sifications and minimum prices have not heretofore been established.

It is further ordered, That a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above-entitled matter, temporary relief be, and it hereby is, granted as follows: commencing forthwith, the coals referred to in the schedule hereto annexed, marked "Temporary Schedule A" and made part hereof, shall be subject to minimum prices as provided in said Temporary Schedule A.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated November 26, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-5351; Filed, December 5, 1940;
10:10 a. m.]

[Docket No. A-242]

PETITION OF DISTRICT BOARD 19 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED

NOTICE OF AND ORDER FOR HEARING AND GRANTING TEMPORARY RELIEF

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on December 9, 1940, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Charles O. Fowler or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

¹ Filed as a part of the original document.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before December 4, 1940.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the establishment of effective minimum prices for the coals of certain mines, hereinafter referred to, located in District 19, for which coals price classifications and minimum prices have not heretofore been established.

It is further ordered, That a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above-entitled matter, temporary relief be, and it hereby is, granted as follows: Commencing forthwith, the coals referred to in the schedule hereto annexed, marked "Temporary Supplement" to Price Schedule No. 1 for District No. 19 and made part hereof,¹ shall be subject to minimum prices as provided in said Temporary Supplement.

Notice is hereby given that application to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 26, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-5352; Filed; December 5, 1940;
10:11 a. m.]

[Docket No. A-318]

PETITION OF DISTRICT BOARD NO. 16 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF TRENT MINE (MINE INDEX

NO. 140) NOT HERETOFORE CLASSIFIED AND PRICED

NOTICE OF AND ORDER FOR HEARING AND ORDER GRANTING TEMPORARY RELIEF

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on January 7, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW, Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Travis Williams or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, required the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 2, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the establishment of effective minimum prices for the coals of Trent Mine (Mine Index No. 140) located in

District No. 16 for which coals price classifications and minimum prices have not heretofore been established.

It is further ordered, That, a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above-entitled matter, temporary relief be and it is hereby granted as follows: Commencing forthwith the coals referred to in the schedule marked "Temporary Supplement" as of this date, annexed hereto and made a part hereof, shall be subject to minimum prices as provided in said schedule.

Notice is hereby given that applications to stay, terminate, or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 29, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-5353; Filed, December 5, 1940;
10:11 a. m.]

[Docket No. A-346]

PETITION OF DISTRICT BOARD NO. 23 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF WINDSOR MINE (MINE INDEX NO. 152) NOT HEREINBEFORE CLASSIFIED AND PRICED

NOTICE OF AND ORDER FOR HEARING AND ORDER GRANTING TEMPORARY RELIEF

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on January 7, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW, Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Travis Williams or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and

¹ Filed as a part of the original document.
No. 237—3

to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 2, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the establishment of effective minimum prices for the coals of Windsor Mine (Mine Index No. 152) located in District No. 23 for which coals price classifications and minimum prices have not heretofore been established.

It is further ordered, That a reasonable showing of the necessity having been made, pending final disposition of the petition in the above entitled matter temporary relief be and it is hereby granted as follows: Commencing forthwith the coals referred to in the schedule marked "Temporary Supplement" as of this date, annexed hereto and made a part hereof, shall be subject to minimum prices as provided in said schedule.

Notice is hereby given that applications to stay, terminate, or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 30, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-5354; Filed, December 5, 1940;
10:11 a. m.]

[Docket No. A-347]

PETITION OF DISTRICT BOARD NO. 18 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED

NOTICE OF AND ORDER FOR HEARING AND ORDER GRANTING TEMPORARY RELIEF

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed

with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on January 7, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Floyd McGown or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 2, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the establishment of effective minimum prices for the coals of certain mines, hereinafter referred to, located in District No. 18 for which coals price classifications and minimum prices have not heretofore been established.

It is further ordered, That, a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above entitled matter, temporary relief be and it is hereby granted as follows:

Commencing forthwith the coals referred to in the Schedule marked "Tem-

porary Supplement" and dated this day, annexed hereto and hereby made a part hereof shall be subject to minimum prices as provided in said Schedule.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 30, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-5355; Filed, December 5, 1940;
10:11 a. m.]

[Docket No. A-357]

DISTRICT BOARD NO. 1 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED

NOTICE OF AND ORDER FOR HEARING AND ORDER GRANTING TEMPORARY RELIEF

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on December 12 1940, at 10:00 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Charles O. Fowler or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the

facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before December 7, 1940.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the establishment of effective minimum prices for the coals of certain mines hereinafter referred to, located in District No. 1, for which coals price classifications and minimum prices have not heretofore been established.

It is further ordered, That a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above-entitled matter, temporary relief be and it hereby is granted as follows: Commencing forthwith, the coals referred to in the schedules marked "Temporary Supplement" as of this date, annexed hereto and made part hereof, shall be subject to minimum prices as provided in said schedules.

Notice is hereby given that applications to stay, terminate, or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 28, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-5356; Filed, December 5, 1940;
10:12 a. m.]

[Docket No. A-363]

PETITION OF DISTRICT BOARD NO. 5 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED

NOTICE OF AND ORDER FOR HEARING AND GRANTING TEMPORARY RELIEF

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on December 18, 1940, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW, Washington, D. C. On such day the Chief of the Records Section in room

502 will advise as to the room where such hearing will be held.

It is further ordered, That Travis Williams or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before December 13, 1940.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the establishment of effective minimum prices for the coals of certain mines, hereinafter referred to, for which coals price classifications and minimum prices have not heretofore been established.

It is further ordered, That, a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above-entitled matter, temporary relief be, and it hereby is, granted as follows: Commencing forthwith the coals referred to in the schedule hereto annexed, marked "Temporary Supplement," and made part hereof, shall be subject to minimum prices as provided in said Temporary Supplement.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regula-

tions governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: December 2, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-5357; Filed, December 5, 1940;
10:12 a. m.]

[Docket No. A-373]

PETITION OF DISTRICT BOARD NO. 5 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED

NOTICE OF AND ORDER FOR HEARING AND ORDER GRANTING TEMPORARY RELIEF

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on January 7, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW, Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Floyd McGowen or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 2, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the establishment of effective minimum prices for the coals of certain mines, hereinafter referred to, located in District No. 5 for which coals price classifications and minimum prices have not heretofore been established.

It is further ordered. That, a reasonable showing of the necessity therefor having been made, pending final disposition of the petition of the above entitled matter, temporary relief be and it is hereby granted as follows:

Commencing forthwith the coals referred to in the Schedule marked "Temporary Supplement" and dated this day, annexed hereto and hereby made a part hereof, shall be subject to minimum prices as provided in said Schedule.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: December 3, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-5358; Filed, December 5, 1940;
10:12 a. m.]

[Docket No. A-47]

PETITION OF DISTRICT BOARD NO. 6 FOR THE ESTABLISHMENT OF CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED AND FOR RECLASSIFICATION AND PRICE CHANGES FOR THE COALS OF CERTAIN MINES HERETOFORE CLASSIFIED AND PRICED

MEMORANDUM OPINION AND ORDER MODIFYING TEMPORARY RELIEF HERETOFORE GRANTED

On September 28, 1940, the Bituminous Coal Producers Board for District No. 6 filed a petition pursuant to section 4 II (d) of the Bituminous Coal Act of 1937 requesting, *inter alia*, the issuance of temporary and final orders establishing price classifications and minimum prices for coals produced at Mine Index No. 114 by the Cross Creek Coal Company and at Mine Index No. 28 by the Penowa Coal Company (the "Foster Mines").

By an order dated October 5, 1940, price classifications and minimum prices were temporarily established for the Foster Mines for movement to all market

areas and for all uses the same as the coals for Mine Index Nos. 7, 20, 24, and 26, the prices for which are set forth in the Schedules of Effective Minimum Prices for District No. 6.

Pursuant to the Order of October 5, 1940, the matter came on for hearing on October 21, 1940, before an Examiner designated by the Director to preside at such hearing. It appeared from the record of the formal hearing that there had been considerable controversy concerning the location of the mine of the Penowa Coal Company, which had already been classified and priced under the name of Leonard Sasso, (Standard Coal Co.) Mine Index No. 274, on a parity with the Jefferson Mine, Mine Index No. 272, of the Jefferson Coal and Coke Corporation, in District No. 2. The mines of both the Cross Creek Coal Company and Penowa Coal Company are on the border line between Districts Nos. 2 and 6. Evidence was adduced at the formal hearing to show that certain coals of District No. 2, particularly the Jefferson Mine and the Aurora Mine of the Duquesne Coal and Coke Company, and the Foster Mines are of substantially the same character and are shipped into substantially the same markets through the same washery. The Order of October 5, 1940 established temporary minimum prices for the Foster Mines 15 cents and higher than those established for the Jefferson and Aurora Mines.

The Director issued an order, upon his own motion, requiring District Board No. 6, Cross Creek Coal Company and the Penowa Coal Company to show cause why the order granting temporary or preliminary relief should not be modified and terminated pursuant to § 301.106 (g) of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division and Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937. Notice of the order to show cause was given to Cross Creek Coal Company, Penowa Coal Company, and District Boards Nos. 2, 3 and 6; the Statistical Bureaus for Nos. 2, 3 and 6; and the Marston Coal Company, a producer in District No. 2.

Represented at the hearing held pursuant to the order to show cause, were the Cross Creek Coal Company, the Penowa Coal Company, Foster-Bixler Fuel Company, Sales-Agents for Penowa Coal Company and Cross Creek Coal Company; Industrial Coal and Iron Company, a producer in District No. 4; the Jefferson Coal and Coke Corporation; Marston Coal Company, Clyde E. Speer Coal Company, Sales-Agent for Jefferson Coal and Coke Corporation and Marston Coal Company; the Duquesne Coal and Coke Company, a producer in District No. 2; District Board No. 2 and District Board No. 6.

It appears that the Jefferson, Aurora and Foster Mines are located on the same railroad a short distance from each other. The coal from these mines is loaded into

railroad cars and is transported, under a stop and transitory tariff, to the Acme Coal Cleaning plant in Pennsylvania for washing and screening prior to re-shipment. The coal produced at these mines is from the same seam and is substantially similar in analysis and structure. It was admitted by Mr. Foster, representing the Foster Mines, that these mines were the only two mines in District No. 6 which shipped coal through this washing plant and that there were no other mines in District No. 6 producing coal analogous to the washed coal produced by the Foster Mines. It was contended by Mr. Foster that the coal produced at these mines in its raw state was no better than the coal produced at other mines in District No. 6. He admitted, however, that washing increased the value of the coals. Mr. Foster also stated that he could not guarantee the same analysis on the raw coal as he would guarantee on the washed coal.

The representatives of the Jefferson strip mine, and District Board No. 2, presented data to show that the coals from those mines were no better than those from the Foster Mines and that they could not compete in their usual markets at the differentials of 15 cents and more per ton which had resulted from the temporary classifications established for the Foster Mines. It appeared that the production of the Foster Mines had increased, whereas the production of the Jefferson and other mines had decreased since the establishment of the temporary prices for the Foster Mines.

The representative of the Industrial Coal and Iron Company stated that it had lost business to the Foster Mines in Cleveland, Ohio, and indicated that similar diversions of business had probably occurred in other markets inasmuch as the Foster Mines were able to quote the same or a better analysis at a lower minimum price than the Jefferson or District No. 4 mines.

District Board No. 6 presented a resolution recommending that the temporary prices and classification symbols be changed from E to C so that the classification symbols and prices will be the same as for the coals produced at Mine Index Nos. 2, 8, 14, 16 and 18 as incorporated in the Schedule of Effective Minimum Prices for District No. 6 for all shipments except truck. This change was recommended on the basis of analytical data received from the Cross Creek Coal Company and the Penowa Coal Company subsequent to the formal hearing. The District Board also requested that the formal hearing be reopened.

District Board No. 2, Clyde E. Speer Coal Company, and Industrial Coal and Iron Company opposed the adoption of the recommendation of District Board No. 6 on the ground that the price differential between the Jefferson and Foster Mines does not now preserve to them their existing fair competitive opportu-

ties, nor will the recommendation of District Board No. 6 remedy the matter.

The Director is of the opinion that the issues involved are highly controversial and that there is great probability that code members in District No. 2 will be prejudiced if the temporary relief herein granted is not modified; that existing fair competitive opportunities would be more nearly preserved between the competing mines involved if the minimum prices of the Cross Creek Coal Company and the Penowa Coal Company, Mine Index Nos. 114 and 28, respectively, are modified so that these mines be given price classifications and minimum prices, as set forth in the Temporary Supplement annexed hereto and made part hereof,¹ on a parity with the District No. 2 mines involved.

The Director is further of the opinion that the record made at the formal hearing does not adequately disclose all the facts and that the hearing should be reopened before the same Examiner in a hearing room of the Division, 734 15th Street NW, Washington, D. C., at 10 a. m., December 16, 1940, so that additional evidence may be adduced.

Applications to stay, terminate or modify the temporary relief as herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 27, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-5350; Filed, December 5, 1940;
10:10 a. m.]

[Docket No. A-268]

PETITION OF DISTRICT BOARD NO. 1 FOR RECLASSIFICATIONS AND PRICE CHANGES FOR THE COALS OF CERTAIN MINES HERETOFORE CLASSIFIED AND PRICED

NOTICE OF AND ORDER FOR HEARING AND ORDER GRANTING TEMPORARY RELIEF

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on January 7, 1941, at 10 a. m. o'clock, in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW, Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Floyd McGowen or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby au-

thorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become parties herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before December 30, 1940.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the establishment of reclassifications and price changes for the coals of certain mines, (Mine Index Nos. 457, 1026, 1110, 1252, 1253, 1262, 2310, 1299, 1623, 1664, 2493, 1745, 1790, 301, 2368, 1990, 1992, 2026, 1424, and 2155) located in District No. 1, which have been heretofore classified and priced.

An informal conference, after notice to interested parties, was held on November 20, 1940, for the purpose of affording interested parties the opportunity of expressing their views with respect to the temporary relief requested, and there having been no opposition to the temporary relief hereinafter granted;

It is further ordered, That a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above-entitled matter, temporary relief be, and it hereby is, granted as follows: Commencing forthwith, the coals referred to in the schedules hereto annexed, marked "Temporary Supplement to Price Schedule No. 1, District No. 1," and made part hereof,¹ shall be subject to minimum prices as provided in said Temporary Supplement.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division and proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 27, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-5348; Filed, December 5, 1940;
10:10 a. m.]

[Dockets Nos. A-257, A-349]

PETITION OF DISTRICT BOARD 9 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES OF DISTRICT NO. 9 NOT HERETOFORE CLASSIFIED AND PRICED

ORDER OF CONSOLIDATION, NOTICE OF AND ORDER FOR HEARING, AND ORDER GRANTING TEMPORARY RELIEF

Original petitions, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party; and

It appearing that the above-entitled matters raise analogous issues;

It is ordered, That the above-entitled matters be consolidated;

It is further ordered, That a hearing in the above-entitled matters be held, under the applicable provisions of said Act, and the rules and regulations of the Division, on December 16, 1940, at 2 o'clock p. m. (eastern standard time) in a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW, Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room in which such hearing will be held.

It is further ordered, That Travis Williams or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become parties herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bitu-

¹ Filed as a part of the original document.

minous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Any petitioner desiring a separate hearing on any of the petitions herein consolidated may file a motion for such separate hearing, setting forth the facts relied upon to show the necessity therefor. Such petitions of intervention and motion for separate hearings shall be filed with the Bituminous Coal Division on or before December 10, 1940.

The matter concerned herewith is in regard to the establishment of effective minimum prices for the coals of certain mines, hereinafter named, located in District No. 9, for which coals price classifications and minimum prices have not heretofore been established.

All persons are hereby notified that the hearing in the above-entitled matters and any orders therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment of the original petition, petitions of interveners, or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of said original petition.

It is further ordered, That a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above-entitled matters, temporary relief be, and it hereby is, granted as follows: Commencing forthwith, the coals referred to in the schedules marked "Temporary Supplement R" and "Temporary Supplement T", annexed hereto and made part hereof, shall be subject to minimum prices as provided in said schedules.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division and proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 28, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-5349; Filed, December 5, 1940;
10:10 a. m.]

[Docket No. 1480-FD]

IN THE MATTER OF C. C. COAL COMPANY,
DEFENDANT

CEASE AND DESIST ORDER

A complaint dated November 16, 1940, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on November 16, 1940, by Bituminous Coal

Producers Board for District No. 2, a complainant, with the Bituminous Coal Division alleging wilful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder, as follows:

That the defendant violated the provisions of the Code and the effective minimum prices by selling and delivering about 200 tons monthly of slack coal to Thos. E. Brown at less than the effective minimum price for said coal.

The defendant having by stipulation made November 27, 1940, a true copy of which is annexed hereto and made a part hereof, admitted the truth of the allegations of said complaint and consented to the making and entry of this order:

It is ordered, That the defendant, its (or his) officers, representatives, agents, servants, employees, and attorneys, and all persons acting or claiming to act in its (or his) behalf or interest, cease and desist and they hereby are permanently enjoined and restrained from violating the effective minimum price schedules and the rules and regulations relating thereto.

It is further ordered, That the Division in its discretion may apply to the Circuit Court of Appeals of the United States within any circuit where such defendant resides and carries on business for the enforcement hereof.

Dated: November 30, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-5359; Filed, December 5, 1940;
10:12 a. m.]

[Docket Nos. A-32, A-33, A-112]

PETITION OF GUYAN EAGLE COAL COMPANY,
CODE MEMBER IN DISTRICT NO. 8, FOR
REDUCTION OF EFFECTIVE MINIMUM
PRICES IN SIZE GROUPS 18 TO 21, INCLU-
SIVE, PURSUANT TO SECTION 4 II (d) OF
BITUMINOUS COAL ACT OF 1937; PETI-
TION OF BUFFALO CHILTON COAL COM-
PANY, CODE MEMBER IN DISTRICT NO. 8,
FOR REDUCTION OF EFFECTIVE MINIMUM
PRICES IN SIZE GROUPS 1 TO 4, INCLU-
SIVE, AND 18 TO 21, INCLUSIVE, PURSUANT
TO SECTION 4 II (d) OF BITUMINOUS
COAL ACT OF 1937; PETITION OF BITUMI-
NOUS COAL PRODUCERS BOARD FOR DIS-
TRICT NO. 8 FOR CHANGE IN CLASSIFI-
CATION OF COALS OF SIZE GROUPS 1 TO 4,
INCLUSIVE, AND SIZE GROUPS 18 TO 21,
INCLUSIVE, PRODUCED BY AMHERST COAL
COMPANY, BUFFALO CHILTON COAL COM-
PANY, BUFFALO EAGLE MINES, INC.,
GUYAN EAGLE COAL COMPANY, AND LO-
DARDO COAL MINING COMPANY, CODE
MEMBERS OF DISTRICT NO. 8, FOR SHIP-
MENTS TO ALL MARKET AREAS

ORDER TO SHOW CAUSE WHY PETITION
SHOULD NOT BE DISMISSED

Hearings in the above entitled matters having been postponed indefinitely pending the filing of amended petitions by petitioners, and no such amended petitions having been received to date, and Island Creek Coal Company and District Board

No. 7 having moved to dismiss the above entitled petitions;

It is ordered, That petitioners be required to show cause why these petitions should not be dismissed, before W. A. Cuff, an Examiner previously designated to preside at such hearings, at 9:30 a. m., on December 13, 1940, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

Dated: December 5, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-5380; Filed, December 5, 1940;
11:47 a. m.]

DEPARTMENT OF COMMERCE.

Civil Aeronautics Authority.

[Docket No. 513]

IN THE MATTER OF THE APPLICATION OF NORTHEAST AIRLINES, INC.

NOTICE OF HEARING

The above-entitled proceeding, being the application of Northeast Airlines, Inc., for amendment of certificate of public convenience and necessity issued to Boston-Maine Airways, Inc., to reflect change of name from Boston-Maine Airways, Inc., to Northeast Airlines, Inc., is hereby assigned for public hearing on December 9, 1940, 10 o'clock a. m. (Eastern Standard Time) in Room 7064, Department of Commerce Building, Washington, D. C., before Examiner Berdon M. Bell.

December 3, 1940.

By the Civil Aeronautics Board.

[SEAL] THOMAS G. EARLY,
Secretary.

[F. R. Doc. 40-5334; Filed, December 5, 1940;
9:47 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Docket No. 5956]

APPLICATION OF CENTRAL CAROLINA BROADCASTING CORPORATION (NEW)

NOTICE OF HEARING

Application dated, September 15, 1939; for construction permit; class of service, broadcast; class of station, broadcast; location, Burlington, North Carolina; operating assignment specified: Frequency, 1420 kc.; power, 100 w. night, 100 w. day; hours of operation, unlimited.

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine the legal, financial, technical and other qualifications of the applicant to construct and operate the proposed station.

¹ Filed as a part of the original document.

2. To determine the nature, extent and effect of any interference which would result should the proposed station operate simultaneously with stations WMVA and WBIG, or either of them.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Central Carolina Broadcasting Corp.,
% T. N. Boone,
Burlington, North Carolina.

Dated at Washington, D. C., December 2, 1940.

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-5327; Filed, December 4, 1940;
2:49 p. m.]

[Docket No. 5954]

APPLICATION OF VOICE OF LONGVIEW
(KFRO)

NOTICE OF HEARING

Application dated, October 24, 1939; for modification of construction permit; class of service, broadcast; class of station, broadcast; location, Longview, Texas; operating assignment specified: Frequency, 1340 kc.; Power, 5 kw. night, 5 kw. day (directional antenna night); hours of operation, unlimited.

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether the granting of the application would be consistent with the Standards of Good Engineering Practice.

2. To determine whether the granting of this application would tend toward a fair, efficient and equitable distribution of radio service as contemplated by section 307 (b) of the Communications Act of 1934, as amended.

3. To determine the nature and extent of any interference which would result to the service of Stations WCOA, Pensacola, Florida, WSPD, Toledo, Ohio, and KGNO, Dodge City, Kansas, should Station KFRO operate as proposed, simultaneously with Stations WCOA, WSPD and KGNO.

4. To determine the nature and extent of any interference which would result from the granting of the instant application and the applications of Station

KGNO (B4-ML-998), Rose City Broadcasting Company (B3-P-2925), Butler Radio, Inc. (B3-P-2896) and WCOA (B3-P-2943), or from the granting of the instant application and any of the other four applications.

5. To determine the area and population served by Station KFRO, as now operated, and to be served if operated as proposed.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Voice of Longview,
Radio Station KFRO,
% James R. Curtis, P. O. Box 607,
Longview, Texas.

December 3, 1940.

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-5362; Filed, December 5, 1940;
10:53 a. m.]

[Docket No. 5971]

APPLICATION OF KING-TRENDLE BROADCASTING CORPORATION (WOOD), AS-
SIGNOR AND WOOD BROADCASTING COR-
PORATION, ASSIGNEE

NOTICE OF HEARING

Application dated, July 18, 1940; for voluntary assignment of license; class of service, broadcast; class of station, broadcast; location, Grand Rapids, Mich.; present assignment: Frequency, 1270 kc.; power, 500 w. night, 500 w. day; hours of operation, shares WASH.

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine the financial qualifications of the proposed assignee.

2. To determine whether the financial arrangements underlying the proposed assignment are in violation of 15 Mich. Stats. Ann. §§ 21.18 and 21.21 (1937), and if so, whether the persons responsible therefore would directly or indirectly have a substantial interest in or control over the proposed assignee, and further whether such violation is likely to lead to litigation detrimental to the efficient operation of Station WOOD in the public interest.

3. To determine whether the persons who would participate in the control of the proposed assignee are qualified as to character, financial practices and purposes to manage the operations of Station WOOD in the public interest.

4. To determine whether the arrangements underlying the proposed assignment provide that under certain contingencies control of the proposed assignee will be transferred from the common to the preferred stockholders without provision for Commission consent thereto, and if so, whether such arrangements are in violation of section 310 of the Communications Act.

5. To obtain full information as to the past and present agreements among the proposed assignor and assignee and persons in control thereof with respect to interests in, or privileges, operations and revenues of, Station WOOD.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicants on the basis of a record duly and properly made by means of a formal hearing.

The applicants are hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicants who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicants' addresses are as follows:

King-Trendle Broadcasting Corporation, Radio Station WOOD, 1700 Stroh Building, Detroit, Michigan.

WOOD Broadcasting Corporation, 1700 Stroh Building, Detroit, Michigan.

December 3, 1940.

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-5363; Filed, December 5, 1940;
10:53 a. m.]

[Docket No. 5972]

APPLICATION OF KFJI BROADCASTERS, INC.
(KFJI)

NOTICE OF HEARING

Application: Dated, May 15, 1940; for construction permit; class of service, broadcast; class of station, broadcast; location, Klamath Falls, Oregon; operating assignment specified: Frequency, 600 kc.; power, 500 w. night; 1 kw. day; hours of operation, unlimited.

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine the extent and effect of any interference which the operation of applicant's station, as proposed, would cause to the operation of Stations CJOR, Sea Island, B. C., and CFQC, Saskatoon, Sask., operating as proposed.

2. To determine whether the granting of the application would be consistent with the provisions of the North American Regional Broadcasting Agreement.

3. To determine the area and population served by applicant's station as now operated.

4. To determine the area and population which would be served by applicant's station operating as proposed.

5. To determine whether applicant's station should be assigned a regional frequency in lieu of its present local assignment, and whether such an allocation would be consistent with good engineering practice.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

KFJI Broadcasters, Inc.,
Radio Station KFJI,
215 Main St.,
Klamath Falls, Oregon.

December 4, 1940.
By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-5381; Filed, December 5, 1940;
11:49 a. m.]

[Docket No. 5972]

APPLICATION OF JOE L. SMITH, JR. (WJLS)
NOTICE OF HEARING

Application dated, February 8, 1940; for construction permit; class of service, broadcast; class of station, broadcast; location, Beckley, West Virginia; operating assignment specified; Frequency, 900 kc.; power, 1 kw. night, 1 kw. day (Directional antenna); hours of operation, unlimited.

Your are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine the nature, extent and effect of any interference which may result should the applicant station oper-

ate as proposed simultaneously with stations WTAD, Quincy, Illinois and WSAZ at Huntington, West Virginia.

2. To determine the area and population which presently receive interference-free primary service from Station WJLS, and the area and population which may be expected to receive such service should the applicant station operate as proposed.

3. To determine whether the granting of the application would tend toward fair, efficient and equitable distribution of radio service as contemplated by section 307 (b) of the Communications Act of 1934, as amended.

4. To determine whether public interest would be served by granting this application and withdrawal of the authorization to use the frequency 900 kilocycles heretofore granted to Station WSAZ, Huntington, West Virginia.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Joe L. Smith, Jr.,
Radio Station WJLS,
608 Woodlawn Avenue,
Beckley, West Virginia.

December 4, 1940.
By the Commission

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-5382; Filed, December 5, 1940;
11:49 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4389]

IN THE MATTER OF STANDARD OIL COMPANY
COMPLAINT

The Federal Trade Commission, having reason to believe that Standard Oil Company, a corporation, has violated and is violating the provisions of section 2 (a) of the Clayton Act as amended by the Robinson-Patman Act (U.S.C., Title 15, Sec. 13), hereby issues its complaint, charging as follows:

PARAGRAPH 1. The respondent, Standard Oil Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with principal office and place of business located at 910 South Michigan Avenue, Chicago, Illinois. Respondent is engaged in the business, among other

things, of distributing and selling gasoline to and in the City of Detroit, Michigan, and adjacent territory.

PAR. 2. Respondent sells its gasoline to about 450 retailers thereof in the Detroit area, with a large proportion of whom respondent has entered into contracts, now in force, obligating respondent to sell and deliver to such retailers all of their respective requirements of respondent's brands of gasoline during the terms of such contracts. For the purpose of supplying said customers and of making deliveries pursuant to said contracts, respondent ships its gasoline from its refinery at Whiting, Indiana, to its terminal at River Rouge, Michigan, from which point respondent transports and delivers said gasoline to said customers in tank cars or tank wagons; and there is and has been at all times herein mentioned a continuous stream of trade and commerce in said gasoline between respondent's refinery at Whiting, Indiana, and said retail dealers purchasing the same in Detroit, Michigan. All of such purchases by said retail dealers are and have been in the course of such commerce. Said gasoline is sold by respondent for resale in the Detroit area.

PAR. 3. Since June 19, 1936, in the course and conduct of its business above described, respondent has sold, and now sells, its gasoline to four Detroit dealers engaged in reselling said gasoline at retail, at prices substantially lower than the prices charged by respondent to its other Detroit retailer purchasers for gasoline of the same grade and quality. Said four dealers are: Citrin-Kolb Oil Company; Stikeman Oil Company, Inc.; Wayne Oil Company; and Ned's Auto Supply Company. Each of said dealers owns or operates one or more gasoline stations where respondent's gasoline is sold at retail to consumers thereof, in competition with other retailers of gasoline purchasing the same from respondent or from other manufacturers. The prices at which respondent has sold its gasoline to said four dealers from time to time since June 19, 1936, have ranged from one-half cent to one and three-quarters cents per gallon lower than the prices charged by it to other Detroit retailers for the same gasoline. Under normal merchandising conditions, during the greater part of that period, respondent's price to said four dealers for its "Red Crown" gasoline (its largest selling brand) has been one and one-half cents below its price therefor to other retailers.

PAR. 4. The effect of the discrimination in price described in the preceding paragraph hereof has been and may be to injure, destroy and prevent competition with each of the four dealers named in said paragraph, in the resale of gasoline.

Wherefore, the premises considered, the Federal Trade Commission on this 29th day of November, A. D. 1940, issues its complaint against said respondent.

NOTICE

Notice is hereby given you, Standard Oil Company, respondent herein, that the 3rd day of January, A. D. 1941, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so ad-

mitted constitute the violation or violations of law charged in the complaint.

In witness whereof the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 29th day of November, A. D. 1940.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-5364; Filed, December 5, 1940;
11:29 a. m.]

[Docket No. 4390]

IN THE MATTER OF GULF REFINING
COMPANY
COMPLAINT

The Federal Trade Commission, having reason to believe that Gulf Refining Company, a corporation, has violated and is violating the provisions of section 2 (a) of the Clayton Act as amended by the Robinson-Patman Act (U.S.C. Title 15, Sec. 13), hereby issues its complaint, charging as follows:

PARAGRAPH 1. The respondent, Gulf Refining Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with principal offices located at Gulf Building, Pittsburgh, Pennsylvania. Respondent is engaged in the business, among other things, of distributing and selling gasoline to and in the City of Detroit, Michigan, and adjacent territory.

PAR. 2. Respondent sells its gasoline to about 225 retail dealers in the Detroit area, with most of whom respondent has entered into contracts, now in force, obligating respondent to sell and deliver to said dealers their respective requirements of respondent's brands of gasoline from time to time during the terms of such contracts. At least one of said dealers, The B. F. Goodrich Company, resells a part of the gasoline so purchased at wholesale to certain other retail dealers in the Detroit area. For the purpose of supplying its said customers, and of making deliveries pursuant to said contracts, respondent ships its said gasoline from its refinery at Toledo, Ohio, to its terminal and bulk plant in or near Detroit, in Michigan, from which terminal or bulk plant respondent transports and delivers said gasoline to said customers in tank cars or tank wagons; and there is and has been at all times herein mentioned a continuous stream of trade and commerce in said gasoline between respondent's refinery at Toledo, Ohio, and said dealers purchasing the same in Detroit, Michigan. All of such purchases by said dealers are and have been in the course of such commerce. Said gasoline is sold by respondent for resale in the Detroit area.

PAR. 3. Since June 19, 1936, in the course and conduct of its business above described, respondent has sold, and now

sells, its gasoline to The Firestone Tire and Rubber Company and The B. F. Goodrich Company at prices substantially lower than the prices charged by respondent to its other Detroit retailer customers for gasoline of the same grade and quality. Each of said customers owns or operates one or more gasoline stations where respondent's gasoline is sold at retail in competition with other retailers of gasoline purchasing the same from respondent or from other refiners. Said The B. F. Goodrich Company knowingly receives the benefit of such discriminatory prices and resells a portion of the gasoline so purchased by it to other retail dealers competitively engaged in the resale thereof. The prices at which respondent has sold its gasoline to said two named customers since June 19, 1936, have ranged from one to two cents per gallon lower than the prices charged by it to other Detroit retailers for the same gasoline. Under normal merchandising conditions, during the greater part of that period, respondent's price to The Firestone Tire and Rubber Company and The B. F. Goodrich Company for its "Good Gulf" gasoline (its largest selling brand) has been one and one-half cents or more per gallon below its price thereafter to other retailers.

PAR. 4. The effect of the discrimination in price described in the preceding paragraph hereof has been and may be to injure, destroy and prevent competition with The Firestone Tire and Rubber Company and The B. F. Goodrich Company and with customers of The B. F. Goodrich Company, in the resale of gasoline.

Wherefore, the premises considered, the Federal Trade Commission on this 29th day of November, A. D. 1940, issues this its complaint against said respondent.

NOTICE

Notice is hereby given you, Gulf Refining Company, respondent herein, that the 3d day of January, A. D. 1941, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission, in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission, requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts, which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file an answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission, such facts admitted constitute a violation of law or laws, as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 29th day of November, A. D. 1940.

By the Commission.

[SEAL]

O_TIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-5365; Filed, December 5, 1940;
11:29 a. m.]

[Docket No. 4391]

IN THE MATTER OF THE TEXAS COMPANY
COMPLAINT

The Federal Trade Commission, having reason to believe that The Texas Company, a corporation, has violated and is violating the provisions of section 2 (a) of the Clayton Act as amended by the Robinson-Patman Act (U.S.C. Title 15, Sec. 13), hereby issues its complaint, charging as follows:

PARAGRAPH 1. The respondent, The Texas Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with principal offices located at 135 East 42nd Street, New York City. Respondent is engaged in the business, among other things, of distributing and selling gasoline to and in the City of Detroit, Michigan, and adjacent territory.

PAR. 2. Respondent sells its gasoline to more than 80 retail dealers in the Detroit area, with all or most of whom respondent has entered into contracts, now in force, obligating respondent to sell and deliver to said dealers, respectively, quantities of respondent's brands of gasoline from time to time during the terms of such contracts. At least one of said dealers, The B. F. Goodrich Company, resells a part of the gasoline so purchased at wholesale to certain other retail dealers in the Detroit area. For the purpose of supplying its said customers, and of making deliveries pursuant to said contracts, respondent ships its said gasoline from its refineries or storage points (principally from its refinery at Lockport, Illinois) outside the State of Michigan to its terminal and bulk plant in or near Detroit, in Michigan, from which terminal or bulk plant respondent transports and delivers said gasoline to said customers in tank cars or tank wagons; and there is and has been at all times herein mentioned a continuous stream of trade and commerce in said gasoline between respondent's said refineries and storage plants outside the State of Michigan and said dealers purchasing the same in Detroit, Michigan. All of such purchases by said dealers are and have been in the course of such commerce. Said gasoline is sold by respondent for resale in the Detroit area.

PAR. 3. Since June 19, 1936, in the course and conduct of its business above described, respondent has sold, and now sells, its gasoline to The Firestone Tire and Rubber Company, The B. F. Goodrich Company and certain other customers engaged in reselling said gasoline at retail in the Detroit area at prices substantially lower than the prices charged by respondent to its other Detroit retailer customers for gasoline of the same grade and quality. Each of said customers receiving the benefit of such lower prices owns or operates one or more gasoline stations where respondent's gasoline is sold at retail in competition with other retailers of gasoline purchasing the same from respondent or from other refiners. Said The B. F. Goodrich Company knowingly receives the benefit of such discriminatory prices and resells a portion of the gasoline so purchased by it to other retail dealers competitively engaged in the resale thereof. The said lower prices at which respondent has sold its gasoline to its customers above mentioned, since June 19, 1936, have ranged from one-half cent to two cents per gallon lower than the prices charged by it to other

Detroit retailers for the same gasoline. Under normal merchandising conditions, during the greater part of that period, respondent's price to The Firestone Tire and Rubber Company and The B. F. Goodrich Company for its "Fire Chief" gasoline (its largest selling brand) has been one and one-half cents or more per gallon below its price therefor to most of its other retailer customers.

PAR. 4. The effect of the discrimination in price described in the preceding paragraph hereof has been and may be to injure, destroy and prevent competition with The Firestone Tire and Rubber Company, The B. F. Goodrich Company and other customers of respondent receiving the benefit of such discrimination, and with customers of The B. F. Goodrich Company, in the resale of gasoline.

Wherefore, the premises considered, the Federal Trade Commission on this 29th day of November, A. D. 1940, issues this its complaint against said respondent.

NOTICE

Notice is hereby given you, The Texas Company, respondent herein, that the 3rd day of January, A. D. 1941, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 29th day of November, A. D. 1940.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-5366; Filed, December 5, 1940;
11:29 a. m.]

[Docket No. 4392]

IN THE MATTER OF SHELL OIL COMPANY,
INCORPORATED

COMPLAINT

The Federal Trade Commission, having reason to believe that Shell Oil Company, Incorporated, a corporation, has violated and is violating the provisions of section 2 (a) of the Clayton Act as amended by the Robinson-Patman Act (U.S.C., Title 15, Sec. 13), hereby issues its complaint, charging as follows:

PARAGRAPH 1. The respondent, Shell Oil Company, Incorporated, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with principal office and place of business located at Shell Building, St. Louis, Missouri. Respondent is engaged in the business, among other things, of distributing and selling gasoline to and in the City of Detroit, Michigan, and adjacent territory.

PAR. 2. Respondent sells its gasoline to retail dealers therein in the Detroit area, with all or most of whom respondent has entered into contracts, now in force, obligating respondent to sell and deliver to such retailers all of their respective requirements of respondent's brands of gasoline during the terms of such contracts. For the purpose of supplying said

customers and of making deliveries pursuant to said contracts, respondent ships its gasoline from its refineries at East Chicago, Indiana, and Wood River, Illinois, to its terminal at River Rouge, Michigan, from which point respondent transports and delivers said gasoline to said customers in tank cars or tank wagons; and there is and has been at all times herein mentioned a continuous stream of trade and commerce in said gasoline between said refineries and points of shipment in Indiana and Illinois and said retail dealers purchasing the same in Detroit, Michigan. All of such purchases by said retail dealers are and have been in the course of such commerce. Said gasoline is sold by respondent for resale in the Detroit area.

PAR. 3. Since June 19, 1936, in the course and conduct of its business above described, respondent has sold, and now sells, its gasoline to one Henry Starkey Hickey, doing business under the name of "Grand River Oil & Gas Company", at prices substantially lower than the prices charged by respondent to its other Detroit retailer purchasers for gasoline of the same grade and quality. Said Hickey, doing business under the name of "Stark Hickey, Inc.", owns and operates a gasoline station at 11111 Grand River Avenue in Detroit where respondent's gasoline so purchased by him is resold at retail to consumers thereof, in competition with other retailers of gasoline purchasing the same from respondent or from other manufacturers. Stark Hickey, Inc., a corporation, controlled by and chiefly owned by said Hickey, likewise engages in the resale at retail of said gasoline so purchased by said Hickey, at 8461 Grand River Avenue in Detroit, in competition with other retailers of gasoline purchasing the same from respondent or from other manufacturers. The prices at which respondent has sold its gasoline to said Hickey from time to time since June 19, 1936, have ranged from one to one and three-quarters cents per gallon lower than the prices charged by it to other Detroit retailers for the same gasoline. Under normal merchandising conditions, during the greater part of that period, respondent's price to said Hickey for its "Super Shell" gasoline (its largest selling brand) has been one and one-half cents below its price therefor to other retailers.

PAR. 4. The effect of the discrimination in price described in the preceding paragraph hereof has been and may be to injure, destroy and prevent competition with said Henry Starkey Hickey and Stark Hickey, Inc., in the resale of gasoline.

Wherefore, the premises considered, the Federal Trade Commission on this 29th day of November, A. D. 1940, issues its complaint against said respondent.

NOTICE

Notice is hereby given you, Shell Oil Company, Incorporated, respondent herein, that the 3rd day of January, A. D.

1941, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission, in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission, requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts, which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission, such facts admitted constitute a violation of law or laws, as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 29th day of November, A. D. 1940.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-5367; Filed, December 5, 1940;
11:29 a. m.]

[Docket No. 4108]

IN THE MATTER OF WALTER L. MILLER, INDIVIDUALLY, AND TRADING AS WAMILL QUILT FACTORIES

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 4th day of December, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41).

It is ordered. That Randolph Preston, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered. That the taking of testimony in this proceeding begin on Tuesday, December 17, 1940, at ten o'clock in the forenoon of that day (mountain standard time) in Room 322, Post Office Building, Denver, Colo.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-5368; Filed, December 5, 1940;
11:30 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-174]

IN THE MATTER OF CONSOLIDATED ELECTRIC AND GAS COMPANY, BARAGA COUNTY LIGHT AND POWER COMPANY, HOUGHTON COUNTY ELECTRIC LIGHT COMPANY

FINDINGS AND ORDER OF THE COMMISSION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 3d day of December, A. D. 1940.

Exemption of Security Issue of Registered Holding Company or Subsidiary

Issue solely for purpose of financing business of subsidiary.

Application for exemption of issue and sale of bonds by subsidiary of registered holding company, the proceeds to be used to repay inter-system indebtedness, granted pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, subject to certain conditions, having been expressly authorized by a state commission and being solely for the purpose of financing the business of applicant.

Acquisition of Securities by the Issuer

Approval.

Declarations filed by subsidiaries of registered holding company pursuant to Rule U-12C-1 with regard to the payment by them of certain notes permitted to become effective, subject to certain conditions.

Acquisition of Securities by the Issuer

Approval.

Declaration by registered holding company pursuant to Rule U-12C-1 with regard to the purchase by it or by the Indenture Trustee of certain of its assumed bonds in the open market permitted to become effective, subject to certain conditions.

Loans, Extensions of Credit, Donations and Capital Contributions to Associate Companies

Forgiveness of indebtedness as capital contribution.

Declaration filed by registered holding company pursuant to Rule U-12B-1 with regard to the donation by it to subsidiary company of certain indebtedness permitted to become effective.

Consolidated Electric and Gas Company ("Consolidated"), a registered holding company, Baraga County Light and Power Company ("Baraga"), and Houghton County Electric Light Company ("Houghton"), two subsidiary utility companies, have jointly filed an application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, a declaration pursuant to Rule U-12B-1 and declarations pursuant to Rule U-12C-1 with regard to the following transactions:

(1) Baraga proposes to issue and sell at the principal amount thereof to the Northwestern Mutual Life Insurance Company \$300,000 of its First Mortgage 4% Bonds, due October 1, 1960. The issue and sale of these Bonds have been authorized by the Public Service Commission of the State of Michigan.

(2) Baraga proposes to use \$123,000 of the proceeds from the sale of such Bonds to pay its 6% Demand Note of \$123,000 principal amount which is owned by Houghton.

(3) Baraga proposes to use the remaining \$177,000 of the proceeds from

the sale of such Bonds to make a partial payment of that amount on its 6% Note, in the principal amount of \$303,500, due September 1, 1938, which is owned by Consolidated. In turn Consolidated proposes to use \$150,000 of the funds which it will receive from such partial payment to pay certain of its presently outstanding bank loans, and the remaining \$27,000 will be deposited with the Indenture Trustee for Consolidated's Collateral Trust Gold Bonds.

(4) Consolidated proposes to donate the \$126,500 unpaid balance due to it by Baraga on the \$303,500 6% Note, due September 1, 1938, following such partial payment, as a contribution to the capital of Baraga.

(5) Houghton proposes to use approximately \$22,000 of the \$123,000 received from Baraga for construction purposes and will apply the remaining \$101,000 (or less) to make a partial payment on its 6% Demand Note, in the principal amount of \$783,000, now owned by Consolidated.

(6) Consolidated proposes to deposit \$101,000 (or less) received from Houghton with the Indenture Trustee for the First Lien Collateral Trust Gold Bonds, due 1946, of Central Gas and Electric Company (which have been assumed by Consolidated) under which Indenture the notes of Houghton are pledged. The funds so deposited with the Indenture Trustee will be used either by such Trustee or by Consolidated to purchase such Bonds on the open market.

After appropriate notice, a public hearing was held upon the application and declarations. The Commission has considered the record and finds that it is appropriate in the public interest and in the interest of investors and consumers to permit the aforesaid declarations, as amended, pursuant to Rules U-12B-1 and U-12C-1 to become effective, and to grant the aforesaid application, as amended, pursuant to Section 6 (b) of the Act, and finds with respect thereto that the issue and sale of the aforesaid Bonds are solely for the purpose of financing the business of Baraga and have been expressly authorized by the Public Service Commission of the State of Michigan in which State such company is organized and doing business.

It is therefore ordered. That the aforesaid application be, and the same hereby is granted, and the aforesaid declarations be, and the same hereby are permitted to become effective forthwith, subject to the following terms and conditions:

1. That the proposed transactions shall be carried out in accordance with the terms and conditions of, and for the purposes stated in the application or declarations, and within sixty days after such application is granted or such declarations are permitted to become effective;

2. That within 10 days after the consummation of any transaction regarding which said application has been granted, or said declarations have been permitted to become effective, the applicant or declarants shall certify to the Commission that such transaction has been carried out in accordance with the terms and conditions of and for the purposes represented by said application or declarations;

3. That the proposed transactions shall be carried out in accordance with the authorization of the Public Service Commission of the State of Michigan, and if the same shall be modified, revoked, or otherwise terminated, the effectiveness of the order granting the application and permitting the declarations to become effective shall be, without further order or the taking of any action by the Commission, revoked and terminated;

4. That all charges to the capital surplus account of Baraga shall be subject to the approval of the Commission and that no charge shall be made to such account without the prior approval of the Commission.

5. That Baraga file with the Commission as an amendment to its application, prior to the issue and sale of its First Mortgage 4% Bonds, copies of the definitive Trust Indenture securing such Bonds;

6. That Consolidated report to the Commission on the first day of each month following the date of this Order all acquisitions of Bonds made by it under this Order. Such report shall specify the amounts thereof, the cost per unit, the amount of commission and any other fees paid in connection with such acquisitions, the name and address of each broker or over-the-counter dealer, the total price for each purchase, the name and address of the vendor at any private sale, and where possible, the name and address of the beneficial owner of any Bond offered by such vendor;

7. That all Bonds purchased at private sale shall be paid for at a price (including fees if any) not to exceed the price (excluding brokerage fees) at which such Bonds were last sold in a reported sale, to which sale neither Consolidated nor the prospective seller nor any person acting in behalf of either was a party; and

8. That no Bonds shall be purchased from any person or company in any way associated or affiliated with Consolidated except in a transaction at the current market price and wherein the affiliated person functions solely as a broker and receives as compensation no more than the customary brokerage fee.

By the Commission (Commissioners Healy, Eicher and Pike), Chairman Frank and Commissioner Henderson being absent and not participating.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-5326; Filed, December 4, 1940;
12:07 p. m.]

[File No. 1-2548]

IN THE MATTER OF AUSTIN SILVER MINING COMPANY COMMON CAPITAL STOCK, \$1.00 PAR VALUE

ORDER SUSPENDING REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 4th day of December, A. D. 1940.

The Commission having instituted a proceeding pursuant to section 19 (a) (2) of the Securities Exchange Act of 1934 to determine whether the registration on the New York Curb Exchange of the Common Capital Stock, \$1.00 par value, of Austin Silver Mining Company should be suspended or withdrawn; and

After appropriate notice,¹ a hearing having been held, the trial examiner having filed an advisory report, and no exceptions thereto having been taken; and

The Commission having fully considered this matter and having entered its findings herewith:

It is ordered, Pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, that the registration on the New York Curb Exchange of the Common Capital Stock, \$1.00 par value, of the Austin Silver Mining Company shall be and the same is hereby suspended for a period of 60 days to commence 5 days after the date of this order; and

It is further ordered, That, if the issuer of the said securities does not file the annual report prescribed by section 13 (a) of the Securities Exchange Act of 1934 and the rules and regulations thereunder prior to or within such 60-day period, the registration of said securities on the New York Curb Exchange shall be withdrawn.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-5369; Filed, December 5, 1940;
11:34 a. m.]

[File No. 814-6]

IN THE MATTER OF INCOME ESTATES OF AMERICA, INC.

ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2d day of December, A. D. 1940.

An application having been filed by the above named applicant under and pursuant to the provisions of section 9 (b) of the Investment Company Act of 1940 for exemption from the provisions of section 9 (a) of said Act; and

The Commission having granted to such applicant a temporary exemption from the provisions of section 9 (a) pending the disposition of the application for permanent or further exemption from the provisions of such section;

It is ordered, That a hearing on the matter of the permanent or further exemption of the above named applicant from the provisions of section 9 (a) of the Investment Company Act of 1940 be held on December 11, 1940 at ten o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1102 will advise interested parties where such hearing will be held;

It is further ordered, That Charles S. Moore, Esquire, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing on such matters. The officer so designated to preside at such hearing is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42 of the Investment Company Act of 1940 and to Trial Examiners under the Commission's Rules of Practice.

Notice is hereby given to the applicants and to any other persons whose participation in such proceeding may be in the public interest or for the protection of investors.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-5377; Filed, December 5, 1940;
11:35 a. m.]

[File No. 814-7]

IN THE MATTER OF ALLEN N. YOUNG
ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2d day of December, A. D. 1940.

An application having been filed by the above named applicant under and pursuant to the provisions of section 9 (b) of the Investment Company Act of 1940 for exemption from the provisions of section 9 (a) of said Act; and

The Commission having granted to such applicant a temporary exemption from the provisions of section 9 (a) pending the disposition of the application for permanent or further exemption from the provisions of such section;

It is ordered, That a hearing on the matter of the permanent or further exemption of the above named applicant from the provisions of section 9 (a) of the Investment Company Act of 1940 be held on December 11, 1940, at ten o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1102 will advise interested parties where such hearing will be held;

It is further ordered, That Charles S. Moore, Esquire, or any other officer or officers of the Commission designated by it for that purpose shall preside at the

hearing on such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all the powers granted to the Commission under Sections 41 and 42 of the Investment Company Act of 1940 and to Trial Examiners under the Commission's Rules of Practice.

Notice is hereby given to the applicants and to any other persons whose participation in such proceeding may be in the public interest or for the protection of investors.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-5372; Filed, December 5, 1940;
11:34 a. m.]

[File No. 814-8]

IN THE MATTER OF ROBERT B. YOUNG
ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2d day of December, A. D. 1940.

An application having been filed by the above named applicant under and pursuant to the provisions of section 9 (b) of the Investment Company Act of 1940 for exemption from the provisions of section 9 (a) of said Act; and

The Commission having granted to such applicant a temporary exemption from the provisions of section 9 (a) pending the disposition of the application for permanent or further exemption from the provisions of such section;

It is ordered, That a hearing on the matter of the permanent or further exemption of the above named applicant from the provisions of section 9 (a) of the Investment Company Act of 1940 be held on December 11, 1940 at ten o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1102 will advise interested parties where such hearing will be held;

It is further ordered, That Charles S. Moore, Esquire, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing on such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all the powers granted to the Commission under Sections 41 and 42 of the Investment Company Act of 1940 and to Trial Examiners under the Commission's Rules of Practice.

Notice is hereby given to the applicants and to any other persons whose participation in such proceeding may be in the public interest or for the protection of investors.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-5371; Filed, December 5, 1940;
11:34 a. m.]

[File No. 814-9]

IN THE MATTER OF FREDERICK K. THOMAS
ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2d day of December, A. D. 1940.

An application having been filed by the above named applicant under and pursuant to the provisions of section 9 (b) of the Investment Company Act of 1940 for exemption from the provisions of section 9 (a) of said Act; and

The Commission having granted to such applicant a temporary exemption from the provisions of section 9 (a) pending the disposition of the application for permanent or further exemption from the provisions of such section:

It is ordered, That a hearing on the matter of the permanent or further exemption of the above named applicant from the provisions of section 9 (a) of the Investment Company Act of 1940 be held on December 11, 1940 at ten o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1102 will advise interested parties where such hearing will be held;

It is further ordered, That Charles S. Moore, Esquire, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing on such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all the powers granted to the Commission under Sections 41 and 42 of the Investment Company Act of 1940 and to Trial Examiners under the Commission's Rules of Practice.

Notice is hereby given to the applicants and to any other persons whose participation in such proceeding may be in the public interest or for the protection of investors.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-5373; Filed, December 5, 1940;
11:34 a. m.]

pend the disposition of the application for permanent or further exemption from the provisions of such section;

It is ordered, That a hearing on the matter of the permanent or further exemption of the above named applicant from the provisions of section 9 (a) of the Investment Company Act of 1940 be held on December 11, 1940, at ten o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1102 will advise interested parties where such hearing will be held;

It is further ordered, That Charles S. Moore, Esquire, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing on such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all the powers granted to the Commission under Sections 41 and 42 of the Investment Company Act of 1940 and to Trial Examiners under the Commission's Rules of Practice.

Notice is hereby given to the applicants and to any other persons whose participation in such proceeding may be in the public interest or for the protection of investors.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-5375; Filed, December 5, 1940;
11:35 a. m.]

[File No. 814-11]

IN THE MATTER OF INDEPENDENCE SHARES CORPORATION
ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2d day of December, A. D. 1940.

An application having been filed by the above named applicant under and pursuant to the provisions of section 9 (b) of the Investment Company Act of 1940 for exemption from the provisions of section 9 (a) of said Act; and

The Commission having granted to such applicant a temporary exemption from the provisions of section 9 (a) pending the disposition of the application for permanent or further exemption from the provisions of such section;

It is ordered, That a hearing on the matter of the permanent or further exemption of the above named applicant from the provisions of section 9 (a) of the Investment Company Act of 1940 be held on December 11, 1940 at ten o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1102 will advise interested parties where such hearing will be held;

[File No. 814-10]

IN THE MATTER OF BENJAMIN FRANKLIN CORPORATION
ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2d day of December, A. D. 1940.

An application having been filed by the above named applicant under and pursuant to the provisions of section 9 (b) of the Investment Company Act of 1940 for exemption from the provisions of section 9 (a) of said Act; and

The Commission having granted to such applicant a temporary exemption from the provisions of sections 9 (a)

be held;

It is further ordered, That Charles S. Moore, Esquire, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing on such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all the powers granted to the Commission under Sections 41 and 42 of the Investment Company Act of 1940 and to Trial Examiners under the Commission's Rules of Practice.

Notice is hereby given to the applicants and to any other persons whose participation in such proceeding may be in the public interest or for the protection of investors.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-5370; Filed, December 5, 1940;
11:34 a. m.]

[File No. 814-12]

IN THE MATTER OF ROBERT A. BONNER

ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2d day of December, A. D. 1940.

An application having been filed by the above named applicant under and pursuant to the provisions of section 9 (b) of the Investment Company Act of 1940 for exemption from the provisions of section 9 (a) of said Act; and

The Commission having granted to such applicant a temporary exemption from the provisions of section 9 (a) pending the disposition of the application for permanent or further exemption from the provisions of such section;

It is ordered, That a hearing on the matter of the permanent or further exemption of the above named applicant from the provisions of section 9 (a) of the Investment Company Act of 1940 be held on December 11, 1940, at ten o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW, Washington, D. C. On such day the hearing room clerk in Room 1102 will advise interested parties where such hearing will be held;

It is further ordered, That Charles S. Moore, Esquire, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing on such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all the powers granted to the Commission under Sections 41 and 42 of the Investment Company Act of 1940 and to Trial Examiners under the Commission's Rules of Practice.

Notice is hereby given to the applicants and to any other persons whose participation in such proceeding may be in the public interest or for the protection of investors.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-5378; Filed, December 5, 1940;
11:35 a. m.]

[File No. 814-13]

IN THE MATTER OF ALFRED H. GEARY

ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2d day of December, A. D. 1940.

An application having been filed by the above named applicant under and pursuant to the provisions of section 9 (b) of the Investment Company Act of 1940 for exemption from the provisions of section 9 (a) of said Act; and

The Commission having granted to such applicant a temporary exemption from the provisions of section 9 (a) pending the disposition of the application for permanent or further exemption from the provisions of such section;

It is ordered, That a hearing on the matter of the permanent or further exemption of the above named applicant from the provisions of section 9 (a) of the Investment Company Act of 1940 be held on December 11, 1940 at ten o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW, Washington, D. C. On such day the hearing room clerk in Room 1102 will advise interested parties where such hearing will be held;

It is further ordered, That Charles S. Moore, Esquire, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing on such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all the powers granted to the Commission under Sections 41 and 42 of the Investment Company Act of 1940 and to Trial Examiners under the Commission's Rules of Practice.

Notice is hereby given to the applicants and to any other persons whose participation in such proceeding may be in the public interest or for the protection of investors.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-5376; Filed, December 5, 1940;
11:35 a. m.]

[File No. 814-14]

IN THE MATTER OF FRANK C. McCOWN, JR.

ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2d day of December, A. D. 1940.

An application having been filed by the above named applicant under and pursuant to the provisions of section 9 (b) of the Investment Company Act of 1940 for exemption from the provisions of section 9 (a) of said Act; and

The Commission having granted to such applicant a temporary exemption from the provisions of section 9 (a) pending the disposition of the application for permanent or further exemption from the provisions of such section;

It is ordered, That a hearing on the matter of the permanent or further exemption of the above named applicant from the provisions of section 9 (a) of the Investment Company Act of 1940 be held on December 11, 1940 at ten o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW, Washington, D. C. On such day the hearing room clerk in Room 1102 will advise interested parties where such hearing will be held;

It is further ordered, That Charles S. Moore, Esquire, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing on such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all the powers granted to the Commission under Sections 41 and 42 of the Investment Company Act of 1940 and to Trial Examiners under the Commission's Rules of Practice.

Notice is hereby given to the applicants and to any other persons whose participation in such proceeding may be in the public interest or for the protection of investors.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-5374; Filed, December 5, 1940;
11:35 a. m.]

